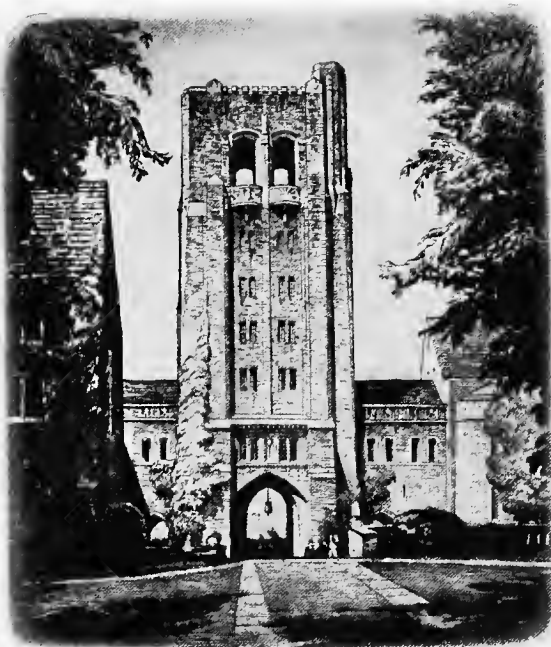




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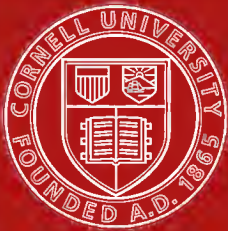
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**IOWA ECONOMIC HISTORY SERIES**  
**EDITED BY BENJAMIN F. SHAMBAUGH**



## ECONOMIC LEGISLATION IN IOWA





IOWA ECONOMIC HISTORY SERIES  
EDITED BY BENJAMIN F. SHAMBAUGH

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HISTORY OF  
ECONOMIC LEGISLATION  
IN IOWA

BY  
IVAN L. POLLOCK

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## EDITOR'S INTRODUCTION

The importance of economic problems in contemporary legislation is obvious: governments are everywhere protecting and improving the economic well-being of the citizen. Indeed, under modern conditions such legislation is imperative.

This review of the *History of Economic Legislation in Iowa*, prepared by Dr. Pollock for publication in the *Iowa Economic History Series*, corresponds to Dr. Briggs's *History of Social Legislation in Iowa* as already published in the *Iowa Social History Series*.

BENJ. F. SHAMBAUGH

OFFICE OF THE SUPERINTENDENT AND EDITOR  
THE STATE HISTORICAL SOCIETY OF IOWA  
IOWA CITY IOWA



## AUTHOR'S PREFACE

The purpose of this monograph is to present a review of the laws of Iowa which have been enacted primarily through economic considerations: it aims to trace the historical development of economic legislation in such a manner as to indicate the tendencies of such legislation in Iowa.

Being primarily an historical review, the monograph does not attempt to treat any one of the several groups of economic legislation in an exhaustive manner. A special monograph might well be devoted to each of the important divisions of this volume. Indeed, several such special monographs have already been prepared under the direction of and published by The State Historical Society of Iowa (see Downey's *History of Labor Legislation in Iowa*; Brindley's *History of Taxation in Iowa*; Brindley's *History of Road Legislation in Iowa*; and Downey's *History of Work Accident Indemnity in Iowa*).

The scope of this work may be briefly indicated by the statement that only that legislation is considered which has been enacted primarily through economic considerations: it includes all legislation enacted for the purpose of internal improvement and for the conservation or development of the natural resources of the State; legislation enacted for the purpose of regulating business in its various forms; labor legislation; and tax legislation. Legislation relative to those branches of private law which deal with

the rights of property, domestic relations, and the estates of decedents has been excluded from consideration in these pages.

The author gratefully acknowledges his obligation to Professor Benj. F. Shambaugh, Superintendent and Editor of The State Historical Society of Iowa, whose guidance and encouragement made the work possible. Likewise to Dr. Dan E. Clark the writer owes much besides the compilation of the index. Acknowledgments are also due to Miss Helen Otto for assistance in the verification of the manuscript, and to Miss Ruth A. Gallaher, Librarian of The State Historical Society of Iowa.

IVAN L. POLLOCK

THE WAR TRADE BOARD  
WASHINGTON, D. C.

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## INTRODUCTION

The ultimate purpose of government is to secure to the individual and to society the largest practicable measure of well-being by equalizing opportunity, by maintaining order, by providing educational facilities, and by regulating certain factors in the social and economic environment in the interest of freedom. In other words, government makes for the general well-being of society by preventing the exploitation of individuals, groups, or classes. Government may even contribute directly to the welfare of the individual by requiring of him certain action in his own interest. "Besides administering justice and protecting life and property, it is the plain duty of the state to see to it that the social and economic conditions under which the individual is compelled to live are such that he can develop his latent abilities, make the most of the faculties with which he is endowed by nature, and thus realize fully the ends of his existence. In short, the state should be an instrument of economic and social progress."<sup>1</sup>

Since the middle of the nineteenth century there has been a remarkable change of attitude in regard to the scope of governmental functions: there has been a marked tendency on the part of civilized states to extend their activities into fields which had theretofore been left to unregulated individual initiative. Public regulation has grown steadily in many directions, thus greatly modifying the individualistic theory of the functions of the state. To a greater extent than ever before it is seen that the individual may not always be the best judge of his own interests — that collective action enforced by the state may more nearly equalize opportunity and thus make for the best interests both of the

individual and of society. The feeling is growing that if the state has the right and duty to protect the individual or society from fraud and imposition by preventive measures, it has the same right and duty to protect the individual or society by constructive measures which will make preventive measures less necessary.<sup>2</sup>

In the United States there has already developed a large body of purposeful governmental restrictions and regulations, both Federal and State, which indicate a decided tendency away from individualism and toward collectivism. These measures, so far as they are economic in character, may be classified as follows: governmental encouragement of internal improvements; the conservation of natural resources; the regulation of the manufacture and sale of foods and food products; restrictions on the organization of business; restrictions on and regulation of transportation; regulation of exchange, banking, and insurance; restrictions on profits; and restrictions on and regulation of labor conditions and labor contracts. Moreover, there is an increasing number of people who demand legislation for the relief of their social and economic wants. Indeed, there is a widespread feeling that the government should direct the forces of industry, commerce, and science in such a way as to make the interests of individuals and of society as nearly identical as possible.<sup>3</sup>

Besides the regulation and control of great nation-wide industries, the Federal government is confronted with the solution of many other economic problems. Thus a catalog of the most important economic activities of the Federal government would include the regulation and control of the national banking system, the regulation and control of trusts and of interstate and international commerce, the conservation of natural resources, the construction of great public works for irrigation, the improvement of rivers and harbors, the building of the Panama canal, the publication of

reports on the movements of commerce, the compilation of agricultural statistics, and the enactment of pure food regulations.<sup>4</sup>

But in all of its economic activities the Federal government is limited to the exercise of powers conferred upon it by the Federal Constitution. On the other hand, the powers of the State being general in their scope, the State government may legislate very broadly for the furtherance of the general welfare of the people. It may legislate in the interests of the health, the good order, the education, and the morals of the inhabitants of the State; and all laws enacted for the furtherance of these objects will be enforced as valid unless they should be found to violate some of the constitutional limitations upon the powers of State governments.<sup>5</sup>

Moreover, while the Federal government has developed new functions and new methods in the field of economic and social legislation, State governments have not remained inactive. Thus the several States have undertaken to supervise and regulate transportation companies within their borders; they have granted charters with limited liability to corporations; they have incorporated and regulated insurance companies and banking associations; they have provided for the regulation of gas, electric light and power, and local transportation companies; and they have also begun to regulate and control food producing establishments and other similar industries. In addition to these activities the State governments have promoted internal development. They have built roads and encouraged improved methods of agriculture and stock-breeding. They have made arrangements for the draining of swamp lands, and initiated policies for the conservation of natural resources. Finally, they have developed methods of taxation by which revenue is raised for the conduct of both State and local governmental activities.<sup>6</sup>

In view of these conditions it would seem worth while to

review the economic legislation of a typical State of the Middle West and to show just what that State has done in this interesting field of governmental direction and control.

In any attempt to discuss the regulation and control of economic conditions by law it is of course essential to have clearly in mind just what is meant by economic legislation. As used in this volume the term economic legislation means all legislation which directly affects or attempts to regulate the economic condition of society, that is, legislation enacted for the purpose of bettering and protecting the economic condition of the people of the State. It consists of all those measures the object and purpose of which are, on the one hand, to secure to every one in the State equality of opportunity and, on the other hand, to prevent the exploitation of one class by another class: it attempts to secure fair play in business. Economic legislation consists, moreover, of all those measures the object and purpose of which are to encourage the development and conservation of the resources of the State, and includes road legislation, drainage laws, the encouragement of agriculture and stock-raising, and the geological survey. It is legislation which is enacted primarily through economic considerations.

In a broad sense this might seem to include all the legislation enacted from the social point of view, and commonly designated as social legislation, as well as the legislation which is primarily economic. All socio-economic legislation, such as poor laws and liquor legislation, as well as legislative provision for education might be included. Poor relief might seem to be purely social, yet poverty is largely the result of economic conditions; and the economic effect of the use of intoxicating liquors can hardly be overestimated. Education, moreover, affects very directly the economic well-being of society, especially as regards the recent tendency toward provision for vocational training in the public schools. Such legislation has, however, been guided

by ethical rather than by economic considerations, and it is upon this ground that it has been excluded from these pages.

Again, labor legislation, including factory laws, child labor laws, and laws for the regulation of labor contracts, appears to be quite as much social as economic; and the same may be said of pure food laws and misbranding laws. But an examination of such laws and of the causes which have led to their enactment shows that there have been in all such legislation economic as well as social considerations; and so labor legislation can not be overlooked in this connection. At the same time it must be freely admitted that the distinction between economic and social legislation is one of degree only. It seems advisable, therefore, in discussing socio-economic legislation to emphasize the economic factors and to pass over without special consideration the social aspects of the problems.

A third group of laws which are economic in their nature, and of which some account must be taken, comprises that body of legislation which has to do with the collection and expenditure of revenue and with the financial administration of the government. Such legislation may be designated as politico-economic. It is not enacted from economic considerations primarily, and yet the economic interests of the people are directly affected by it — as is shown by the fact that in 1915 the total tax levied in Iowa for all purposes amounted to more than \$50,000,000.

Thus defined and limited economic legislation in Iowa may be understood to include (1) all legislation enacted for the purpose of internal improvement and for the purpose of conserving or developing the natural resources of the State, (2) legislation which has been enacted for the purpose of regulating business in its various forms, (3) labor legislation or legislation enacted in order to prevent the exploitation of one class by another class, and (4) tax legislation.

## I

### TRANSPORTATION

Since the time when the Iowa country was first thrown open to settlement, the means and methods of transportation have undergone many changes. The earlier settlements were made chiefly along navigable rivers, and the interior occupation of the State progressed slowly and always along the water courses. Settlers searching for a location could cross the prairie in wagons, but in order to market their produce they had to occupy land reasonably near the navigable streams. Although the need for transportation facilities was keenly felt by the pioneers, it was not until the Iowa country had become a part of the original Wisconsin Territory in 1836 that any attempt was made through legislation to meet the demands of the settlers for better means of transportation.

#### WATER TRANSPORTATION

Iowa escaped, for the most part, the heavy expenditures for canals and the improvement of water courses such as were made by several of the States east of the Mississippi. This escape was due chiefly to the fact that long before the Iowa country was fully settled the practicability of railroads as a means of transportation had been fully demonstrated.

Many of the pioneers of the Territory came into the country by way of the Ohio and Mississippi rivers, or by way of the Great Lakes and the Wisconsin and Fox rivers; and settlements were made along the banks of the Mississippi River or along the rivers of the eastern part of the Terri-

tory which emptied into the Mississippi. In the early days the pioneers naturally looked upon the rivers as highways over which their products would be transported to market. Governor Henry Dodge in his first annual message to the Legislative Assembly of the Territory of Wisconsin in 1836 recommended that Congress be asked for an appropriation for the removal of the obstructions in the rapids of the upper Mississippi and for the improvement of the navigation of the Fox and Wisconsin rivers.<sup>7</sup>

Upon the organization of the Iowa country as a separate Territory in 1838 one of the most important problems that confronted the legislature was that of facilitating transportation, so that the products of the settlers could be taken to market as speedily and as cheaply as possible. River improvement seemed to be the only solution of this problem, and so almost immediately the waterways of the eastern part of the Territory received serious attention. The Maquoketa, Wapsipinicon, Cedar, Iowa, and Skunk rivers, and later the Little Sioux River in western Iowa, were considered to be navigable, and obstructions to navigation thereon were prohibited. Besides other regulations, owners of mill dams were required to construct locks or chutes for the passage of boats.<sup>8</sup> But aside from the ambitious project for the improvement of the Des Moines River, legislation relative to the improvement of navigation was scattered and for the most part ineffective, although many memorials and joint resolutions were passed praying Congress to grant lands or make appropriations of money to aid in improving the navigation of the rivers and streams of the State.<sup>9</sup> With the advent of railroads the importance of water transportation declined and the subject all but disappears from the annals of State legislation.

A few statutes, regulatory in character, have been enacted relative to water carriers, such as the acts requiring the inspection of passenger boats and the equipment of such

boats with life preservers.<sup>10</sup> In fact, the first law relative to transportation or carriers enacted by the Legislative Assembly of the Territory of Iowa was "An Act to provide for the collection of demands against Boats and Vessels", approved on December 20, 1838. This act provided that every boat or vessel used in navigating the waters of the Territory of Iowa should be liable for all debts of the master or owner for supplies or materials furnished, for wharfage dues, for damages for nonperformance of contract, and for injuries done to persons or property by such boat or vessel. An act approved on January 4, 1839, provided for the prevention of disasters on steamboats navigating waters within the jurisdiction of the Territory.<sup>11</sup>

#### THE DES MOINES RIVER IMPROVEMENT

The most ambitious project relative to water transportation attempted in Iowa was the improvement of the Des Moines River by a system of slack water navigation — an undertaking which received attention and aid from Congress as well as from the State legislature. The Des Moines was the largest river in the Iowa country. It offered the possibility of steam navigation for a distance of one hundred miles in a good stage of water; and thus, as the population of the surrounding country increased and the local products became more valuable, agitation for the improvement of the river was begun. As early as 1839 the Legislative Assembly of the Territory authorized the construction of a dam across the Des Moines, but required that it contain a "convenient lock, not less than one hundred and thirty feet in length, and thirty-five feet in width, for the passing of steam, keel, and flat boats, rafts, and other water crafts" of two or more tons burden. The lock was to be kept in repair and boats were to be passed without delay.<sup>12</sup>

At its next session the Legislative Assembly passed a joint resolution asking Congress to make an appropriation



for the survey and improvement of the Des Moines River, to which Congress finally responded through "An Act granting certain Lands to the Territory of Iowa, to aid in the Improvement of the Navigation of the Des Moines River, in said Territory", which was approved on August 8, 1846. This act provided "that there be, and hereby is, granted to the Territory of Iowa, for the purpose of aiding said Territory to improve the navigation of the Des Moines River, from its mouth to the Raccoon Fork, (so-called,) in said Territory, one equal moiety in alternate sections, of the public lands, (remaining unsold, and not otherwise disposed of, encumbered, or appropriated,) in a strip five miles in width on each side of said river".<sup>13</sup>

By a joint resolution passed on January 9, 1847, the General Assembly of Iowa accepted the grant (amounting to about 900,000 acres) for the purposes specified in the act of Congress. A Board of Public Works was immediately created to take charge of the work of improvement, which was to consist of a system of slack water navigation by means of dams and locks, to be paid for out of the proceeds of the lands which were to be sold for that purpose.

The enterprise was soon confronted by unforeseen difficulties. The work not having progressed as rapidly as had been expected, agitation for a more vigorous prosecution of the improvement resulted in the reorganization of the Board of Public Works. Later the board was abolished and the offices of Commissioner and Register of the Des Moines River Improvement were created in its place. To the Commissioner was committed the oversight and control of the work; while to the Register was assigned the performance of all duties connected with the sale of lands. Under the law these officers were given large powers: they could make any disposition of the lands, tolls, and water power which they saw fit, being limited only by the approval of the Governor. In 1853 both officers were made elective; and in 1857 the

office of Register was abolished and the Register of the State Land Office was given charge of the improvement lands.<sup>14</sup>

In the meantime difficulties arose between the Commissioner of the Des Moines River Improvement and the De Moine Navigation and Railroad Company to whom the Commissioner had let the contract (on June 9, 1854) for the improvement of the river from its mouth to the Raccoon Forks.<sup>15</sup> A settlement of these difficulties between the State and the company was effected through a joint resolution of the General Assembly. By the provisions of this settlement the State was released from all contracts for water rents or claims for lands, and the company surrendered to the State its dredge boat and \$20,000 in cash and received more than a quarter of a million acres of land. The General Assembly immediately granted the lands yet remaining to the Keokuk, Fort Des Moines, and Minnesota Railroad Company on condition that the company complete certain specified portions of the improvement, assume all liabilities against the Des Moines River Improvement, and complete seventy-five miles of the proposed railroad within three years. In 1860 the office of the "Commissioner of the Des Moines River Improvement" was abolished.<sup>16</sup>

There continued to be a great deal of legislation relative to the Des Moines River improvement; but the laws enacted after 1860 had to do with settling disputes over the ownership of lands. The project of improving the navigation of the Des Moines River did not accomplish what had been expected of it. Moreover, the railroads were relieving the pressing need for transportation which had led the State into the improvement project; and so in 1866 the General Assembly in a memorial to Congress asked that the Des Moines River be declared non-navigable. During the same session an act was passed repealing all laws requiring locks in dams and draws in bridges on the Des Moines River.<sup>17</sup>

Two other projects relative to water transportation re-

ceived much attention from the legislature of Iowa, namely, the construction of a canal around the Des Moines or lower rapids in the Mississippi opposite Keokuk, and the opening of a waterway between the Mississippi River and the Great Lakes. Congress provided for the construction of a canal and locks around the rapids in the Mississippi at Keokuk; but the "Lakes to the Gulf Waterway" has not yet been realized.<sup>18</sup>

#### FERRIES AND BRIDGES

The pioneers who came overland to the Iowa country were under the necessity of being ferried across the Mississippi, since there were no bridges and the river could not be forded. After reaching the Iowa country the settler found many streams, few roads, and no bridges. In view of the pressing need for roads and bridges the State and Territorial legislatures in the upper Mississippi Valley were quick to respond to the demands of the people. The General Assembly of Illinois passed ten acts establishing ferries across the Mississippi River to the Iowa country. The first of these acts was approved on March 1, 1833. Twelve ferries across the Mississippi were authorized by the Legislative Assembly of the original Territory of Wisconsin; while the Legislative Assembly of the Territory of Iowa passed fifty-six acts relative to ferries, of which forty-two authorized ferries across the Mississippi. Other special acts authorized ferries across the Des Moines, the Iowa, and the Cedar rivers. At the same time several ferry laws of a general regulatory character were placed upon the statute books.

The first law of the Territory of Iowa relative to ferries, approved on December 14, 1838, authorized Mr. Timothy Fanning "to establish and keep a ferry across the Mississippi river, at the town of Du Buque" for a period of twenty years. According to its provisions no other person was to be allowed to establish a ferry within the limits of the town. A

good and sufficient steam ferry boat for the transportation of all persons and their property across the river without delay was to be procured within two years; and in the meantime a sufficient number of flat boats with a sufficient number of employees to operate them were to be provided. Violation of the grant in any way made the whole charter void — provision being made for the disposal of the ferry according to law. This act was typical of the special laws authorizing ferries in the Territory.<sup>19</sup>

The first general act regulating ferries was approved on December 20, 1838. By the provisions of this act no one was allowed to keep a ferry across any stream — except the Mississippi River — without having first obtained permission from the county commissioners' court, which was authorized to grant licenses for a period of not more than five years. License fees were required, and the licensed party, whose duties were expressly prescribed, was given the exclusive right to operate a ferry at the place named. Ferries were not to be permitted within less than one mile of each other. The county commissioners' court was to fix the rates of ferriage for every ferry, and the rates were to be posted on the ferry, a penalty being provided for overcharging.<sup>20</sup> The ferry charges were more or less uniform throughout the Territory, the rates of toll on the Mississippi being at least twice those on the rivers within the Territory.

During the first few years following the admission of Iowa into the Union the General Assembly continued the policy of granting authority to establish ferries by special acts. "An Act for extending the powers of the Board of County Commissioners in regard to licensing and regulating Ferries", approved on February 24, 1847, conferred upon the commissioners the power to grant licenses upon the condition that the applicant give satisfactory evidence of his ability to comply with such regulations as the commission-

ers might prescribe. The privilege might be exercised exclusively for a distance of not more than two miles each way from a specified point, for a period not longer than twelve years. Suitable ferries equipped with all needful fixtures were to be maintained. The commissioners were empowered to fix the rates of ferriage and the amount which should be paid annually to the county. Licenses from both counties were required for ferries across streams dividing counties; and the commissioners were to require the owners to give bonds for the faithful performance of their duty.<sup>21</sup> The act of 1847 was the last law of importance relative to ferries in Iowa: bridges were rapidly taking the place of ferry boats. In 1858, however, it appears that cities were given exclusive power to establish, regulate, and license ferries within their bounds.

Boats as a means of transportation being indispensable to the pioneers, the legislation relative to ferries in the early history of Iowa was necessary to the economic development of the new country.<sup>22</sup>

Bridge legislation is now closely connected with road legislation, but during the period of settlement the regulation of bridges was associated with the regulation of ferries. Up to the close of the Territorial period there were very few bridges across the larger streams. On the rivers and larger streams ferries were operated; while the smaller streams were nearly everywhere forded. On January 15, 1841, "An Act to authorize Peter Brewer and Company to build a Bridge over Skunk River" was approved. This act provided that the bridge should be erected within three years, should have abutments and piers of stone, and should either be high enough not to impair the navigation of the stream or contain a draw. The company was to have a charter for fifteen years; the stock was limited to \$10,000; and the rate of toll was to be fixed by the commissioners of Lee

and Des Moines counties. Section six of the act provided that the company "shall not exercise any banking privileges, and shall purchase no other personal or real property than may be necessary for the erection of said bridge".

In 1844 the "Wabesipinicon Bridge Company" was incorporated under provisions similar to those of the act of 1841. Moreover, the corporation was required to keep a record of the expenses of construction and operation, as well as of the tolls; and when the tolls amounted to enough to cover all expenses of construction and maintenance and interest on the investment and an allowance for tending and keeping the bridge in repair, the bridge was to become the property of the public and to remain forever after a free bridge.<sup>23</sup>

Special acts were passed by the General Assembly in 1848 and 1849 authorizing toll bridge companies to erect two bridges over the Wapsipinicon River; and in 1850 the commissioners of Jackson County were authorized to submit to the people the question of levying a tax to bridge the Maquoketa River at Bridgeport.

The *Code of 1851* made provision for a special property tax, not exceeding one mill on the dollar in any year, to be levied by the county court for building any bridge which was found too expensive to be constructed from the ordinary road fund. The law also provided for licenses for constructing toll bridges and prescribed regulations for bridges constructed under such licenses. The county court was to have control over the whole matter.<sup>24</sup>

In 1855 a law was enacted granting a right of way sixty feet wide to any person or persons building or who might thereafter build a bridge across the streams of the State; and a board of commissioners was created with authority to erect a free bridge across the Cedar River at Cedar Rapids. The board was to receive voluntary subscriptions for the erection of this bridge. It appears that the plan was not

successful, and the bridge was later turned over to a private party to be completed as a toll bridge. During the session of 1856-1857 the bridge over the Skunk River at Union Mills was declared to be a part of the highway, and the Keokuk and Illinois Bridge Company was authorized to build a bridge over the Mississippi River at Keokuk—a bridge to which this company was granted exclusive right.<sup>25</sup>

A general law authorizing the construction of bridges in the State was approved on March 22, 1858. It provided that the county courts should have authority to grant charters for the erection of bridges and defined the method of obtaining such charters. The county judge was empowered to cause the erection of bridges costing less than \$500. He could contract for the erection of more expensive bridges upon the petition of one hundred qualified voters. Several special but unimportant amendatory acts were passed during the sessions of the fifth, sixth, and ninth General Assemblies. The county supervisors were allowed to spend \$5000 on bridges or county buildings without submitting the proposition to a vote of the people, and the limit of the bridge tax was raised to three mills.<sup>26</sup>

In 1868 a right of way sixty feet in width was granted to companies constructing toll bridges; and in 1870 the powers of boards of supervisors in building bridges were enlarged. Boards were authorized to allow from \$10,000 to \$20,000 for bridges according to the population of their counties; and cities were authorized to build and maintain toll bridges and to prescribe regulations and toll rates. "An Act Authorizing the Appropriation of Money to build Bridges", approved on January 31, 1872, increased the power of county boards and city councils relative to expending money for building bridges. Another act of the same session provided that cities and towns should be entitled to the portion of the bridge tax levied within their limits where there was need for bridges within the limits of such municipalities.<sup>27</sup>

Prior to 1860 bridges were among the objects of internal improvement for which Federal aid was requested. During the sessions of 1845 and 1846 the Legislative Assembly passed four joint resolutions asking for the appropriation of sums varying from \$1000 to \$10,000 for the purpose of building certain bridges in the Iowa country. The General Assembly passed four joint resolutions, between 1849 and 1851, asking Congress to aid in the construction of bridges by donating seventy-two sections of land and appropriating \$20,000. Again, in 1855 Congress was asked to make an appropriation for the construction of bridges within the State; and for the same purpose aid was once more requested in 1872.<sup>28</sup>

#### ROADS AND HIGHWAYS<sup>29</sup>

When settlers first began to come into the Iowa country in June, 1833, there were, in places, trails and paths which had been worn by the Indians or by the larger game animals, but these could not always be used by the pioneers in making their way across the country. Roads, in the modern sense, did not exist. Streams were much used since they offered a natural and easy method of travel. But streams were not always available, and, except for those who lived near the water, overland hauling was necessary in order to reach this natural means of transportation.

It was not, however, until the Iowa country had become a part of the original Territory of Wisconsin that any legislative mention was made of roads. "An Act to locate and establish a territorial road west of the Mississippi" was approved on December 7, 1836. This act provided for the appointment of six commissioners who were to employ a surveyor and establish a road starting at Farmington on the Des Moines River and running via Moffit's Mill, Wapello, and Dubuque to the ferry opposite Prairie du Chien. The commissioners were required to submit a report



in which was to be included an estimate of the probable cost of constructing the necessary bridges and other items by them deemed pertinent. This report was to be filed with the clerk of the district court for the counties through which the road passed, and these counties were to keep the road in repair.<sup>30</sup>

At the next session of the Legislative Assembly of the Territory of Wisconsin a general law prescribing the mode of laying out and marking new roads was enacted, besides two special acts establishing Territorial roads in the Iowa country and an act providing for the opening, repairing, or vacating of public roads and highways.<sup>31</sup>

After the organization of the Territory of Iowa in July, 1838, the matter of roads received more serious attention. Indeed, when Iowa came to be admitted into the Union in 1846 the settled parts of the State were covered with a network of highways running in every direction and connecting all the principal towns. That roads were necessary to the development of the country was recognized from the time the first settlement was made; but the economic importance of permanent, well constructed highways was not seriously considered in this State until comparatively recent years.

During the early years of the Territorial period the road laws were borrowed largely from Wisconsin, Michigan, and Ohio. Indeed, the Territory of Iowa inherited its system of road and bridge administration from the original Territory of Wisconsin, where the county was recognized as the important unit in local government.<sup>32</sup> Moreover, it appears that road legislation in Iowa from the organization of the Territory until 1900 consisted largely of acts having to do with administration, in which there was a continual see-saw between the principles of centralization and decentralization.

In his first annual message Governor Robert Lucas recommended the enactment of a general road law which would

define the manner of laying out and establishing Territorial and county roads and provide for opening and keeping them in repair.<sup>33</sup> The Legislative Assembly passed, during its first session, "An Act to provide for laying out and opening Territorial Roads", which was approved on December 29, 1838, and which was almost an exact copy of a statute of the original Territory of Wisconsin. It provided that commissioners appointed to locate roads must act within a year after the road was authorized and file correct surveys and plats in the office of the Secretary of the Territory. The counties through which the roads extended were to pay all the expenses. The width of roads was established at seventy feet.<sup>34</sup> Special acts authorizing the location of roads were also passed during this first session of the Legislative Assembly. Approximately two hundred similar special acts were recorded during the Territorial period; and for a number of years after Iowa had been admitted into the Union roads were provided for in this manner.<sup>35</sup> While many roads were thus authorized it is probably safe to say that not all the highways named in the statutes were laid out. Only a few were kept in a condition to be used throughout the year.

At the session of 1839-1840 several acts having to do with roads were passed. A law providing for the organization of townships contains several sections relative to township roads; and another act "defining the duties of supervisors of roads and highways" required all able-bodied men between the ages of twenty-one and fifty years to perform three days work on the public roads and made provision for dividing counties and townships into road districts. An important step was taken in 1842, when "An act to provide for levying a tax on real and personal property for road purposes" was placed upon the statute books. The tax was to be paid in cash or worked out on the roads, and heavy penalties were provided for delinquencies.

Abuses having developed in connection with the laying out of new roads, a law was enacted in 1842 requiring that applications for such roads must be signed by at least twenty legal voters; and the county commissioners were to be satisfied that the roads applied for were necessary and required by public convenience. Obstruction of public roads, or injury to roads, streets, or bridges was made a finable offence.<sup>36</sup>

In this connection some mention should be made of the interest taken by Congress in encouraging good roads in Iowa during the Territorial period and the early years following the admission of the State into the Union. Congress at one time appropriated \$20,000, and at other times authorized the expenditure of lesser amounts for the construction of military roads in the Iowa country. And it is recorded that the Legislative Assembly of the Territory and the General Assembly of the State passed several joint resolutions and memorials asking Congress to make further appropriations for military roads.<sup>37</sup>

*Graded and Plank Roads:*—From the admission of the State into the Union in 1846 to the codification of the laws in 1851, road legislation dealt for the most part with the establishment of graded and plank roads. Only one turnpike road had been authorized during the Territorial period, and one company had been incorporated to construct a canal, railroad, or macadamized toll road;<sup>38</sup> but in the early State period there was much legislation authorizing the construction of plank and graded toll roads and granting the right of way to such companies. Indeed, thirteen graded and plank roads were authorized by special acts of the State legislature during this period.<sup>39</sup> The provisions of these special acts were very similar. Companies were incorporated and empowered to procure a right of way, and the county commissioners of the several counties through which

the roads passed were authorized to determine the rates of toll. One plank road was authorized after 1851; and by an act approved on March 26, 1862, all plank roads were placed in charge of the board of supervisors, whose duty it was to see that the roads were kept in good condition. If the companies owning the roads did not repair them after being notified of the need the licenses were to be revoked and the roads opened as public highways.<sup>40</sup>

To the general body of road legislation during this period little was added. State roads continued to be authorized by special acts of the General Assembly.<sup>41</sup> Sixty-seven such special acts provided for the location of one hundred and seventy-eight State roads and for the relocation or vacating of fifteen such roads. A law regulating State roads was enacted and soon repealed. The Secretary of State was required to keep a record of all such roads.<sup>42</sup>

*Period from 1851 to 1883:*— The road law of the *Code of 1851* was systematic and arranged in logical order. Under its provisions administration was centralized and efficient; the importance of the county as a unit of local government was enlarged; and the powers formerly exercised by the board of county commissioners were placed in the hands of the county judge who was made the accounting officer and general agent of the county. From July 1, 1851, when the *Code of 1851* went into effect until February 2, 1853, when the system of district road supervisors was established, the administration of roads and bridges was highly centralized, the township being deprived of substantial supervision of highways for the only time in the history of Iowa.<sup>43</sup>

The centralized system provided by the *Code of 1851* was logical and promised efficiency; but centralization was opposed by the people and the system thus established remained in force less than two years. Decentralization was restored by "An Act providing for the election of super-

visors and defining their duties'', approved on January 22, 1853. By the provisions of this act townships were divided into road districts and resident supervisors were to be elected annually for each district, the office of county road supervisor being abolished.<sup>44</sup> This movement was decidedly away from administrative efficiency, in that districts were reduced in size and the appointive principle gave way to that of election. Although the county judge system of road administration was not abolished until July 4, 1860, the authority of the county judges over roads was gradually diminished. In fact this whole period was one of dissension between the adherents of centralized administration and the advocates of decentralization, in which the principle of parceling out the administration into small local units gained in favor.<sup>45</sup> The policy of establishing State roads by special act was continued until the practice was prohibited by the new Constitution of 1857, which also prohibited special legislation for the assessment and collection of taxes for State, county, or road purposes, and for the laying out, opening, and working of roads and highways.<sup>46</sup>

The county judge system, with its extreme centralization, as provided for in the *Code of 1851*, was not popular. From the day of its establishment there had been more or less agitation against the system. By "An Act creating a County Board of Supervisors, defining their duties, and the duties of certain County Officers'', approved on March 22, 1860, this form of county government was abolished and a system of administrative decentralization adopted.<sup>47</sup> The new board of supervisors, which was composed of one supervisor elected annually from each civil township, was given the general supervision of roads, highways, and bridges, and the management of county finances.<sup>48</sup>

No other fundamental changes were made in the road laws until the establishment of the county commissioner system in 1870 under the old name of a board of supervisors.

This law definitely abolished the township system of representation and was in fact a return to the old commissioner system of county government — a system which has been retained down to the present day.

A period of about fourteen years now passed without important changes in the road laws. "While little of a constructive character was being accomplished during this period [1870-1884], sentiment was gradually being crystallized in favor of good roads."<sup>49</sup> The General Assembly was petitioned; Governor Gear made favorable recommendations; and bills were introduced into the legislature having for their object the improvement of the highways. The problem of road administration and the social and economic importance of good roads were for the first time gaining recognition; but nothing was accomplished until the Twentieth General Assembly met in 1884.

During this period legislation was scattered and planless; a change was made from the supervisor to the commissioner system of county government; a separate body of bridge laws was enacted relative to bridge funds; the responsibility for damages sustained as a result of unsafe bridges was fixed; and a change was made in the manner of distributing road taxes between cities and rural districts. Provision was made for the payment of a part of the property road tax in money; and the unsatisfactory experience with the small road district indicated the desirability of a larger unit of road administration. Finally, the county was given larger powers in the matter of finance.<sup>50</sup>

A review of road legislation before 1884 reveals the fact that during the settlement of the Territory there was a clear recognition of the economic and political importance of roads. Unable to build a system of highways, the people memorialized Congress time after time to aid in the construction of permanent roads and bridges. During the early State period it was recognized that good roads could not be

built at public expense, and so private corporations were encouraged to build graded and plank toll roads and toll bridges. These were to serve as feeders to the railroads which were then being introduced.

The control of an economic necessity, such as transportation facilities, by private corporations brought before the people at an early date the question of State regulation and State control of quasi public utilities. That the people of Iowa recognized that the right to charter corporations to do business which was public in character carried with it the right of supervision and control is evidenced by the provisions of the first State Constitution. The pioneers held that private property could not be taken for private use even upon the payment of a just compensation. Where property was so taken compensation should be paid and the right of control should be made secure to the public. They recognized also that a corporation might be private from the standpoint of ownership and management, and public from the standpoint of the service rendered. The strict constitutional provisions probably retarded to some extent the economic development of the State and encouraged the chartering of these early corporations by special acts rather than under a general law. This early State period marks the beginning of an agitation for State regulation and control of public service corporations which has continued to the present day and which has come to include the whole field of corporate activity.

Road legislation has been throughout the history of the State so inextricably bound up with local administration that it can not be considered apart from such administration. By the *Code of 1851* local administration was highly centralized in the county officers. But for a period of over thirty years after 1851 no real constructive legislation was enacted for the purpose of procuring for the inhabitants of the State a system of permanent good roads over which

produce could be marketed in an economical manner and marketed at the time when it would command the highest price. There were enough road laws on the statute book and the amount of money raised by taxes to be expended on the roads was enormous; but the small district plan, although seeming to be very democratic, was inefficient and wasteful. The road supervisors were ignorant of the best methods of road construction, and tenure in office was uncertain. The payment of taxes in labor prevented the working of roads during the most favorable time of the year, and the problem of building good roads out of the available material is one which the best engineers of to-day find difficult of solution.

*Movement for Good Roads:*—Agitation for good roads in Iowa was seriously begun in 1883. Indeed, the roads of the State during the winter of 1882-1883 had been almost impassable. The *Iowa State Register* published a progressive communication entitled *Public Highways in Iowa*, written by Mr. S. D. Pryce of Iowa City, in which the road question was very ably discussed. A State road convention was held at Iowa City in March of the same year. The impassable condition of the roads brought the matter of their improvement to the serious attention of everyone who had to use them. Mr. Pryce's article was widely copied and distributed throughout the State, while the State road convention adopted a series of very progressive resolutions, among which were embodied most of the recommendations which are being made to-day by the good roads propagandists. The campaign for good roads has continued since 1883, and some advance toward better roads has been made—especially in more recent years.

The General Assembly in 1884 enacted one very important measure on the subject of roads, namely, "An Act to Promote the Improvement of Highways". This act pro-



vided for greater administrative centralization in that it established a regular county road fund as distinguished from the township road fund. Boards of supervisors were empowered to levy a tax of not more than one mill on the dollar of the assessed value of the taxable property of their county, to be collected as other county taxes and set aside as a county road fund to be paid out only upon the order of the board of supervisors for work done on the roads of the county and those parts of the road designated by the county supervisors, who were also to determine in what manner the tax should be expended. Furthermore, this law authorized the township trustees, upon the petition of a majority of the voters of the township, to consolidate the various road districts of a township into one district. Where this optional system was put into effect many changes were brought about in township administration. The township trustees could order the road taxes to be paid in money; they could direct the expenditure of all road funds of the township; and they could let contracts for road work to the lowest responsible bidder, or they could appoint a superintendent of roads with as many assistants as necessary to superintend the road work of the township. After two years the township might, if it wished, return to the old system of small road districts.<sup>52</sup> As a matter of fact few townships availed themselves of the new plan. Not until the Twenty-ninth General Assembly met in 1902 was there any additional road legislation of importance.

The amendatory and fragmentary legislation dealing with special phases of the road and bridge question enacted during this period should be noted as indicating a recognition of the fact that the question of road administration had not been solved.<sup>53</sup> One encouraging feature of the situation is the fact that since 1884 the question of good roads has received serious attention from newspapers, farm magazines, engineering associations, State Governors, and good roads

associations. An act amending the important act of 1884 for the improvement of highways made the levy of a tax to be used as a county road fund mandatory upon the county boards of supervisors. By substituting "shall" for "may" in the act the authority of the county in road administration was increased.<sup>54</sup> In speaking of the *Code of 1897*, Mr. John E. Brindley says "it is apparent that, aside from the laws providing for the optional consolidation of road districts on the township basis and creating a county road fund, no fundamental changes in the general system of road administration were made between 1873 and 1896. In other words, the *Code of 1897*, viewed from the standpoint of road and bridge legislation, is substantially the same as the *Code of 1873*. Numerous mandatory and supplementary acts of a somewhat minor character were passed; but in the final analysis the power and authority of the townships, on the one hand, and of the county, on the other, remained practically unchanged."<sup>55</sup>

*The State Highway Commission:*— Road legislation and administration in Iowa since 1904 has centered in the State Highway Commission which was established in that year. The law provided that the Iowa State College at Ames should act as a highway commission for Iowa with the following powers and duties:

1. To devise and adopt plans and systems of highway construction and maintenance, suited to the needs of the different counties of the state, and conduct demonstration in such highway construction, at least one [once] each year at some suitable place, for the instruction of county supervisors, township trustees, superintendents, students of the college, and others.

2. To disseminate information and instruction to county supervisors, and other highway officers who make request; answer inquiries and advise such supervisors and officers on questions pertaining to highway improvements, construction and maintenance,

and whenever the board of supervisors of a county adjudge that the public necessity requires a public demonstration of improved highway construction or maintenance in said county, and so request and agree to furnish necessary tools, help, and motor power for same, the commission shall furnish as soon as practicable thereafter, a trained and competent highway builder for such demonstration free to the county.

3. To formulate reasonable conditions and regulations for public demonstrations; and to promulgate advisory rules and regulations for the repair and maintenance of highways.

4. To keep a record of all the important operations of the highway commission, and report same to the governor at the close of each fiscal year.<sup>56</sup>

The deans of the division of agriculture and engineering were appointed to serve the State in the capacity of such a commission; and in spite of the fact that no financial support was at first provided for the commission it did very good work. This brief statute of 1904 establishing the State Highway Commission marks a step in advance in road legislation in Iowa. Since that date the good roads movement has continued to grow.

In addition to the legislation of 1904 some amendments of minor importance were made to the general body of road laws by the Thirtieth General Assembly. Little was accomplished by the Thirty-first General Assembly in the way of road legislation, except that dragging was provided for and the use of wide tired wagons was encouraged. One reactionary measure provided for the dividing of townships into two or more road districts. Several special and amendatory acts were passed in 1907. In 1909 at least one law of a constructive nature was enacted, the purpose of which was to promote the building of permanent roads in the State and to provide for the establishment of road improvement districts.<sup>57</sup>

Constructive road legislation has come slowly and has

been difficult to secure. In 1911 about fifty bills were introduced — some carefully drawn up and wisely planned — but the more progressive measures failed to pass. The drag law was greatly improved, however, and provision was made for the optional employment of a county engineer by the county boards of supervisors. An important act for the regulation of motor vehicles, levying license fees, and providing for the distribution of the proceeds of these fees was also passed. A yearly registration fee of fifteen dollars for any electric or steam motor vehicle and an annual fee of three dollars for motor bicycles or motorcycles was required. Fifteen per cent of the tax was to be retained in the State treasury and eighty-five per cent is “apportioned among the several counties of the state in the same ratio as the number of townships in the several counties bear to the total number of townships in the state”.<sup>58</sup>

The constant agitation by the friends of the good roads movement finally resulted in constructive legislation in 1913. A new State Highway Commission was established with the following powers and duties:

1st. To devise and adopt plans of highway construction and maintenance suited to the needs of the different counties of the state, and furnish standard plans to the counties in accordance therewith.

2d. To disseminate information and instruction to county supervisors and other highway officers, answer inquiries and advise such supervisors and officers on questions pertaining to highway improvements, construction and maintenance and of reasonable prices for materials and construction.

3d. To keep a record of all important operations of the highway commission and to annually report the same to the governor by the first day of December, which report shall be printed as a public document.

4th. To appoint such assistants as are necessary to carry on the work of the commission, define the duties and fix the compensation

of each, and terminate at will the terms of employment of all employees; provide for necessary bonds, and fix the amount of same.

5th. To make investigation as to conditions in any county, and to report any violation of duty, either of commission or omission, to the attorney general, who shall take such steps as are deemed advisable by him to correct the same.

6th. The state highway commission shall have general supervision of the various county and township officers named in this act in the performance of the duties here enjoined, and shall have full power and authority to enforce the provisions of this act.

7th. To perform all other duties required by law.<sup>59</sup>

The new commission is composed of three salaried members, one of whom is the dean of engineering at the Iowa State College; while the other two members are appointive by the Governor for four year periods. Eight per cent of all the money paid into the State treasury for the registration of motor vehicles is set aside to constitute a maintenance fund for the commission.

Furthermore, the board of supervisors of each county is now required to employ a competent engineer or engineers to supervise the building of permanent roads in the several counties. Provision is made for the classification of roads into county road systems and township road systems, with constructive plans for the improvement of each. The State Highway Commission must pass upon the plans for permanent improvement. It also furnishes to counties, without cost, standard specifications for all bridges and culverts. The letting of contracts for bridge and culvert construction is regulated, and contracts for the construction of any bridge, culvert, or for repairs thereon, exceeding \$2000 in cost must be approved by the commission. By the same legislation the dragging system has been revised. Township trustees of each township must select draggable roads from the township road system and employ a superintendent to supervise the dragging of roads and the repair of the roads, bridges, and culverts of the township system.<sup>60</sup>

The legislation of 1913 is far in advance of any previous road legislation in the State. It is the result of the agitation for good roads which had been carried on so persistently for a quarter of a century. Thus the economic importance of good roads is beginning to be much more clearly recognized than ever before.

The important amendatory laws passed by the Thirty-fifth General Assembly affected the motor vehicle regulation law; improved the law providing for the destruction of weeds upon the highways; and apportioned motor vehicle fees. Provision was made by new laws for the registration of highway routes and for the regulation of vehicles meeting and passing on the public highways. The Thirty-sixth General Assembly made no fundamental changes in the road laws at its session in 1915, although a determined effort was made to change radically the distribution of the motor vehicle fees.<sup>61</sup>

The Thirty-seventh General Assembly made some further advance in road legislation. In addition to amendatory acts, of a minor character, among which were provisions in regard to the oiling of roads, the width of roads, the cutting of weeds, notices, poll taxes, volunteer improvement associations, township drag funds, obstructions, and the apportionment of the motor vehicle fund, three more important laws were passed.<sup>62</sup> The first of these three acts makes compulsory a regular county tax levy for road grading and building purposes.<sup>63</sup> The second establishes a patrol system and requires the county boards of supervisors to employ road patrolmen who shall give their entire time to road work throughout the road working season of the year—from early spring until late fall. Each patrolman is required to keep his own section of the road in proper shape.<sup>64</sup> The third act provided for the acceptance by the State of the provisions of the Federal Road Aid Act.<sup>65</sup>

It is thought that the acceptance of the Federal act by the

State will give an added impetus to the good roads movement. This law, which was enacted by Congress in 1916, provides for the distribution of \$75,000,000 from Federal funds among the States for road improvement during a five-year period. It will probably mean that the State will receive something like two and a quarter million dollars during the five years, an amount which seems small when compared with the annual expenditure of fourteen millions for road purposes in the State at the present time. The benefit which this State hopes to derive from the acceptance of the provisions of this act, however, will not arise so much from the additional funds as from the better coöperation and more comprehensive plans which promise to develop. The State act accepting the provisions of the Federal law provides for the expenditure of the money through the State Highway Commission, and for county, State, and Federal coöperation in the work. If a five-year building program can be developed and the road system of the State be organized into a State-wide unit with efficient administration much progress will have been made and the State's road problem will be in a fair way to solution.

Notwithstanding the fact that there has been a constant struggle between progressive and reactionary tendencies in road legislation throughout the history of the State, the following principles are now generally accepted: there should be a State-wide plan for the road system of the State; all main traveled roads should be patrolled and dragged frequently; roads should be properly drained and hills cut down to the lowest practicable grades; and culverts and bridges should be properly designed and permanently built. Moreover, it is being more widely recognized that the county is the political unit best suited to carry on permanent road improvements under present conditions. Under the law as it now stands rapid progress is being made in the improvement of the highways of the State.

## RECAPITULATION

A careful examination of Iowa legislation pertaining to transportation shows that it has had a very uneven development. There was, however, a clear recognition of the economic and political importance of means of transportation even during the period of the settlement of the Iowa country. During the Territorial period and later in the early State period the people were unable to build a system of roads at public expense. They at first endeavored to secure aid from Congress, but much assistance could not be expected from that source. Attention was later turned to private corporations which were encouraged to build toll roads and bridges. Such roads were the precursors of railroads, and those which were successfully built served as feeders for railroads after the latter had been introduced.

It should be remembered that the Territory of Iowa inherited its system of local government, including the administration of roads and bridges, from the original Territory of Wisconsin. Moreover, throughout the history of the State, the whole body of road legislation has been so inextricably bound up with local administration that it has been almost impossible to separate the two. Centralized administration of the road laws was long needed, but it was successfully opposed by those who favored decentralization.

It is true that local administration was highly centralized by the *Code of 1851*, but the system was retained for only a few years. A period of almost thirty years then followed during which no real constructive legislation was enacted on the subject of roads and highways. To be sure some legislation was passed during this period, but it did not procure for the people of the State a system of permanent good roads over which produce could be cheaply and easily hauled at any time.

Throughout the State period enough money has been collected to build and maintain a system of good roads, had the



funds been spent honestly and intelligently. The small district system of road administration, however, was inefficient and wasteful. Road supervisors and other road officers were ignorant of the best methods of road construction. Tenure of office was uncertain. Taxes were paid in labor, and frequently at the time of year when the work would do the least good. The materials available for road construction were not good. Under such conditions it is not surprising that good roads were almost unknown.

A good roads movement was launched in 1884, but no constructive legislation resulted for twenty years. The agitation for improvement was persistent, however, and the first State Highway Commission was established in 1904. Since that date constructive road legislation has been enacted. The State Highway Commission was reestablished on a better basis in 1913, and an era of permanent roads is being ushered in. Under the present organization there are many problems that face the counties and the commission in building an adequate system of highways in the State. Of these problems two are mentioned by the commission as being difficult of solution, namely, the problem of adequate organization—how to secure men to do the work of building roads, culverts, and bridges in a workmanlike manner—and the problem of securing an adequate system of maintenance.<sup>66</sup>

The road laws of Iowa are the result of a struggle between progressive and reactionary tendencies which has been maintained throughout the history of the State. The progressive tendency has for the time being at least gained a victory. Years of agitation, the increased use of the automobile, and a growing appreciation of the economic importance of good roads are responsible for the progress that has been made. The basic road law of to-day is the law that established the State Highway Commission. It provides for a system of more centralized control over road and bridge

construction and maintenance than the State has had since the adoption of the *Code of 1851*. Iowa was the first State in the Middle West to establish a State-wide system of main roads. The adherence to this system for a period of a few years will give the State a network of permanent good roads that will be of the greatest utility to the people of the State.

## II

### RAILROAD TRANSPORTATION

#### PERIOD OF AGITATION

The Constitution of 1846 under which Iowa was admitted into the Union contained the following section:

Corporations shall not be created in this state by special laws, except for political or municipal purposes; but the general assembly shall provide by general laws, for the organization of all other corporations, except corporations with banking privileges, the creation of which is prohibited. The stockholders shall be subject to such liabilities and restrictions as shall be provided by law. The state shall not directly or indirectly become a stockholder in any corporation.<sup>67</sup>

In accordance with these provisions the First General Assembly provided "that any number of persons may hereafter incorporate themselves for the transaction of any business which may be the lawful subject of a general partnership, including the establishment of ferries, the construction of railroads, and other works of internal improvement."<sup>68</sup> The regulations and restrictions under which corporations were allowed are fully set forth in the law.

During the extra session in 1848 the General Assembly passed "An Act to authorize the 'Mississippi Rapids Railroad Company' to acquire a right of way." This act provided that "whereas, the said work will be of public utility . . . the said company shall not be able to acquire the title to the lands through which the said railroad shall be laid, by purchase or voluntary cession, it shall be lawful for the said company to appropriate so much of said land as

may be necessary for its use, for the purposes contemplated by this act, on conforming with the following provisions''. The company was required to petition the judge of the district court, who would appoint a day of hearing and name three persons to appraise the damages and report thereon. The company was then to pay the damages so assessed, together with the expense of the assessment, and be given possession of the land by the certificate of the judge.<sup>69</sup>

The people of the new State were clamoring for transportation facilities, and the railroads promised the needed relief. Since such roads seemed to the people to afford the solution of their most serious problem everything was done to encourage the rapid introduction of this new and better means of reaching the markets. And so the period from 1848 to 1860 was one of railroad enthusiasm, financial encouragement, and construction. Railroads were demanded at once and at any price. As a matter of fact they did not come as quickly as the people desired. There was not sufficient capital in the new State to finance their construction, and the capitalists of the East turned to the new States only when investments there promised better returns than investments elsewhere. Since railroad construction in the new and thinly populated States was something of a venture, moneyed men hesitated to invest in the enterprise.

Every inducement was held out by the people and many sacrifices were made by communities in order to encourage railroads. Indeed, the liberality of the people knew no bounds, aid being extended to railroads by townships, towns, counties, State, and Nation. Communities and individuals donated money and lands. Anxious for railroad facilities, the people demanded that some National encouragement be offered; and so at the extra session of the First General Assembly memorials and joint resolutions were adopted praying Congress to grant lands to aid in the construction

of certain railroads. These were the first of a series of some twenty-five joint resolutions and memorials which were sent to Congress praying for land grants to aid in the construction of railroads in Iowa.<sup>70</sup> The response of Congress was generous.

The General Assembly, anxious to do all it could to encourage railroads, passed an act in January, 1849, referring to the memorial to Congress asking for lands and stating that it was reasonable to expect that the land would be granted. In order to prevent any unnecessary delay three commissioners were appointed to select and locate such lands as might be appropriated.<sup>71</sup> Although little could be done by the first four General Assemblies for the further encouragement of railroads, eight special acts were passed granting the right of way to as many companies for the construction of their roads; and in 1852 a general law was enacted regulating the manner in which railroad companies could obtain rights of way.<sup>72</sup>

These regulations and provisions were in accord with those embodied in the *Code of 1851* relative to taking private property for works of internal improvement.<sup>73</sup> A right of way not to exceed one hundred feet in width could be taken by purchase with the owner's consent, or without the owner's consent upon payment of damages. Such damages were to be assessed by commissioners appointed for that purpose by the sheriff of the county. The protection of the property of minors, women, and non-residents was provided for; and the crossing of roads and turnpikes, canals, and State land was regulated. For damages sustained by any person in consequence of any neglect in observing the provisions of the act, or through any neglect on the part of their agents the companies were liable.

The first survey for a railroad in the State of Iowa was made in the fall of 1852; and on December 22, 1852, the Mississippi and Missouri Railroad Company was formed for

the purpose of constructing a railroad from Davenport to Council Bluffs. In 1848 a preliminary survey had been made for a proposed railroad from Keokuk to Dubuque, but this road was not built. The Rock Island and La Salle Railroad Company was authorized to build a depot in Davenport, and the use of Centre Market Square in Iowa City was granted to the Davenport and Iowa City Railroad Company in 1851.<sup>74</sup>

#### TAX AID TO RAILROADS

During the years when railroads were first being built in Iowa public opinion was in their favor. Every inducement was held out to them, and heavy sacrifices were made by communities in order to aid in their construction. Communities were allowed to tax themselves heavily for the benefit of the new enterprises. Moreover, special acts were passed authorizing certain towns and counties to subscribe to the capital stock of railroad corporations and to issue bonds to pay for this stock. Such action could be taken only after the question had been submitted to a vote of the electors and a majority of the votes had been cast in favor of the proposition. During the regular session of the Sixth General Assembly three special acts authorized Lee County to vote bonds to the extent of \$450,000; while two other acts authorized Keokuk in the same county to vote \$300,000 in the aid of railroads. This made a total of \$750,000 authorized for a population which was still less than thirty thousand in 1860.<sup>75</sup>

Many acts of this nature were passed, but by a law of the Eighth General Assembly counties and incorporated cities and towns were prohibited from subscribing for stock in railroads and other works of internal improvements.<sup>76</sup> In 1868, however, "An Act to enable Townships and Incorporated Towns and Cities to aid in the Construction of Railroads" was placed upon the statute books.<sup>77</sup> By its

provision the local political divisions named were given authority to levy a tax, not to exceed five per cent upon the assessed value of the property, to aid in the construction of railroads. Such a levy could be made only under certain conditions. One-third of the resident taxpayers must sign a petition for a vote on the question, which was then submitted to the people; and if a majority of those voting favored the levy it could be made. Such a tax was to be collected in the same manner as other taxes and paid over to the railroad company in whose favor it had been voted.

At the next session of the General Assembly the law of 1868 was changed by the addition of a section which provided that "all railroads constructed by or with the aid of any taxes levied and collected under the provisions of this act, shall be subject to the control of the General Assembly in regard to the management of the same and the charges for the transportation of freight and passengers thereon."<sup>78</sup> All the laws permitting local taxation for the aid of railroads were repealed in 1872. Amendatory acts were continued, however, and in 1876 a new law enabled townships and incorporated towns or cities to aid in the construction of railroads. A petition must be signed by a majority of the taxpayers, and two-thirds of those voting had to approve of the proposition before any aid could be given. Later a simple majority was made sufficient, and political subdivisions were again allowed to issue bonds. Railroads were required to comply with the provisions of the grant or forfeit the aid thus provided. It was further provided that they were to forfeit the tax if they failed to collect it within six months. In 1884 these laws were repealed and a substitute enacted in their place. The new law contained, in addition to the provisions of the former acts, a clause providing that persons paying such a tax could, in an indirect manner, obtain an equal amount of railroad stock.

The legal bonded indebtedness of railroads was raised

from \$16,000 to \$18,500 per mile in 1890. In 1902 the provisions of the then existing laws were made applicable to trolley and electric railways — that is, taxes might be voted to either steam or electric roads, but not to both. In 1913 the number of required signers of petitions in cities was decreased. Moreover, the owners of benefited property, that is, territory contiguous to the proposed line of road irrespective of political division, were permitted to vote for the levy of taxes to aid in the construction of electric roads.<sup>79</sup>

#### LAND GRANTS TO RAILROADS

Congress early assumed the policy of making grants to the frontier States to be used by them to aid in the construction of railroads. The first grant made to the State of Iowa for this purpose was through an act approved on May 15, 1856, to aid in the construction of four railroads across the State, from the Mississippi River on the east to the Missouri River on the west. It was a grant, in trust, to the State for the one purpose named in the act and comprised every alternate section for six sections in width on each side of the proposed roads. Railroads so benefited were to remain public highways for the use of the United States free from toll or charge for the transportation of property or troops, and they were to carry mail upon such terms as Congress should direct.<sup>80</sup>

This grant was accepted by the State of Iowa by an act of the General Assembly passed at the special session in 1856, under the terms, conditions, and restrictions contained in the act of Congress. By the same law the lands thus accepted were granted to the following four railroad companies under certain conditions and restrictions: the Burlington and Missouri River Railroad Company, the Mississippi and Missouri Railroad Company, the Iowa Central Air Line Railroad Company, and the Dubuque and Sioux City and Tête des Morts Branch Railroad Company. These



companies were required to complete seventy-five miles of their respective roads within three years from December 1, 1856, and to complete thirty additional miles per year for a period of five years. The whole line of each road was to be completed by December 1, 1865. Upon the failure of any company to comply with these requirements the lands granted to it were to revert to the State. Specific provisions defined the gauge, style of road, and duties of the several companies relative to crossings, turnouts, sidings, and switches. Valid claimants were protected in their rights to lands; and each company was required to file its assent to and acceptance of the conditions in the office of the Secretary of State. Furthermore, it should be noted that this first act provided that each of these railroad companies was to be at all times subject to the rules and regulations prescribed, or to be prescribed by the legislature, and each was required to make an annual report, a copy of which was to be filed with the Secretary of State.<sup>81</sup>

The four companies above named accepted the grant on the conditions and restrictions specified in the act. The Iowa Central Air Line Railroad Company, however, failed to comply with the requirements, and the General Assembly withdrew the lands and regranted them to the Cedar Rapids and Missouri Railroad Company in 1860.<sup>82</sup> The companies were authorized to make disposition of the lands granted to them, by mortgage or deed of trust, for the purpose of securing the necessary amount of construction bonds to complete their respective roads.<sup>83</sup> The Mississippi and Missouri Railroad had completed its line from Davenport to Iowa City before the first land grant was made, consequently the land on that portion of the line was a simple donation. Extension of time for completing the various roads was allowed.

During this same period the Des Moines River Improvement was giving more and more trouble. The contractors

were not complying with agreements and the Commissioner was unable to satisfy the people; high water had retarded the work, and the introduction of railroads made the project seem less important. A settlement was therefore made with the old De Moine Navigation and Railroad Company, and in 1858 the remainder of the land granted for the Des Moines River Improvement was disposed of to the Keokuk, Fort Des Moines and Minnesota Railroad Company, and provision was made for the winding up of the business of the Des Moines River Improvement project.<sup>84</sup> No attempt will be made in this connection to follow all the grants, resump-tions, and changes that were made.

The wisdom of granting lands to railroads has often been questioned. There is much reason to believe that in Iowa the promoters of the railroads profited more than did the State. After the grants were made the companies were slow in complying with the conditions and an extension of time was always asked. The companies were anxious to hold the valuable lands and at the same time build their roads only so fast as increased population promised to make them immediate dividend-paying investments. The Chicago, Iowa, and Nebraska Railroad, which was built with private capital exclusively, was a paying investment; and Mr. William Larrabee says that "it is more than probable that this road would at an early day have been completed to the Missouri River, had it not feared the rivalry of the subsidized Cedar Rapids and Missouri road."<sup>85</sup>

Congress granted to the State of Iowa for railroad purposes a total of more than four million acres of land—almost one-eighth of the total acreage of the State.<sup>86</sup> These lands sold on the average for about five dollars per acre. It is estimated that, including the taxes voted for railroads by counties, townships, and municipalities, grants of rights of way and depot sites, and public and private gifts in money, the railroads in Iowa have received subsidies amounting to more than \$50,000,000.<sup>87</sup>

Legislation relative to land grants and the settlement of claims has continued down to the present time. Congress passed eighteen separate acts and joint resolutions relative to railroad land grants and the settlement of the same in Iowa, while the General Assembly of the State passed thirty separate acts.<sup>88</sup> One cause for the tardy settlement of the railroad land question in Iowa was the fact that railroad grants, swamp land grants, and the Des Moines River Improvement grant overlapped to a certain extent. Moreover, pioneers had settled on the lands and had valid claims to their homes. Much litigation and legislation was necessary in order to clear up the whole matter.<sup>89</sup>

#### RAILROAD REGULATION

*Regulation Before 1873:*—The period from 1853 to the beginning of the Civil War was one of planning and building for railroads in Iowa. All legislation looked toward the encouragement of railroad construction: investment in railroad property was endorsed. A new and growing community was struggling for railroad facilities and keenly appreciated their necessity in the development and growth of the State. During the war little or no advance was made in railroad building; but at its close, the progress was very marked.

The problem of railroad control does not seem to have been discussed during this period; and yet from the very beginning of railroad construction the principle of State control had been recognized. In the act of 1856 accepting the railroad land grant from the United States the following provision appears: "Said Rail Road Companies, accepting the provisions of this act, shall at all times be subject to such rules and regulations as may from time to time be enacted and provided for by the General Assembly of Iowa".<sup>90</sup> And this same provision is found in all subsequent acts granting lands to railroads in Iowa.

At the close of the war railroad construction was pushed with great vigor: lines were completed and systems arranged. But it was not long before abuses arose and dissatisfaction with railroad management was manifest. The great struggle for the extension of railroads throughout the State was followed by a still greater struggle for their control. Railroad companies were charged with discrimination and extortion, and the power of the State to control them became a subject for heated discussion. "The country was new and the situation poorly understood both by railroad officials and the public. In railroad circles the old idea of vested rights under the charters and grants was the controlling idea. They were accustomed to look upon the railroads from a purely proprietary standpoint. The property, it was claimed, belonged to the stockholders, and the public had nothing to do but pay the rates established, and take the accommodation furnished, as the sole consideration should be profit to the owners."<sup>91</sup>

From year to year the situation grew worse. Although a mass of legislation relative to railroads was enacted it was not of a character to relieve the shipper. Railroad companies of the State were early authorized to consolidate their stock with the stock of other railroad companies, and to connect their roads with such other roads. They could also make such contracts and agreements as might be desirable with such roads relative to the transportation of freight or passengers, or for the use of their roads.<sup>92</sup>

It was freely admitted that this privilege of consolidation was the best thing that could happen from the standpoint of the railroads and for the development of an efficient system of transportation. But the plan was one-sided. While the railroad corporations were given a free hand in the regulation of their own affairs the shipper had no recourse. Companies were empowered to mortgage the whole or any part of their property to raise money for construction and equip-

ment, and certain roads were authorized to construct bridges over the Mississippi River.<sup>93</sup>

Many amendatory acts and special laws were enacted prior to 1860. In 1858 the provision of the *Code of 1851* making the individual property of all stockholders of a corporation liable for the corporate debts was made inapplicable to railroad corporations.<sup>94</sup> Congress was memorialized to favor the construction of a transcontinental line and to repeal the duty on railroad iron; and measures were passed to protect railroad property and to prevent the placing of obstructions upon railroad tracks.<sup>95</sup>

Two special acts might be mentioned in this connection as indicating a tendency on the part of the General Assembly to regulate railroads. In one of these acts it was provided that two of the trustees of the Dubuque and Pacific Railroad Company should reside within the State; and the denomination of the construction bonds issued by the company could not be less than fifty dollars. In the other act the Keokuk, Fort Des Moines and Minnesota Railroad was prohibited from issuing additional mortgages without the consent of the first mortgage holders, nor was the amount issued to exceed \$15,000 per mile under any condition.<sup>96</sup> .

Railroad companies in Iowa were early obliged to permit other roads to make track connections and to haul the cars of such other roads at reasonable rates. The offices of secretary, treasurer or assistant treasurer, and general superintendent of every railroad organized under Iowa laws must be kept in Iowa; and an annual report was required of all railroads in the State. During the same year (1862) an attempt was made to secure the publicity of rates. Railroad companies were allowed to issue construction and equipment bonds, to issue preferred stock, and to change the company name. Railroad bridges across the Mississippi and Missouri rivers were authorized, and the construction and operation of railroads in the State was encouraged in other

ways. The liability of railroads as common carriers was defined: contracts would not exempt carriers from liability. Railroads were also made liable for injuries to live-stock and for damages to baggage; and the duties and liabilities imposed upon the companies by law were made equally applicable to lessees. Some special laws were enacted; and Congress was asked to compel the Union Pacific Railroad Company to fulfill its contracts.

At the adjourned session of the General Assembly in 1873 Congress was asked to correct the abuses arising out of exorbitant interstate railroad rates, and an appropriation of \$1000 was made to enable the Governor to procure statistics on the subject of transportation. The roads were required to fix maximum rates for passengers and freight in June of each year and to post the same in the depots. They were made liable for the wilful wrongs of their agents and employees; and provision was made to punish companies for violation of the criminal laws. Railroads were also declared liable for damages by fire set or caused by them. The pooling of earnings by parallel railroads was prohibited by the *Code of 1873*, which also fixed the maximum fare for passengers at three and one-half cents per mile.<sup>97</sup>

*The Granger Law:*—The belief that railroad companies were charging unreasonable rates and making unfair discriminations had been growing for some time. It is not surprising, therefore, to find that when the Fifteenth General Assembly convened in 1874 it was with the expectation that a radical railroad law would be enacted. Abundant crops, extraordinarily low prices for products, and a disturbed state of mind upon currency and financial questions generally, all served to intensify dissatisfaction among the farmers. The expected legislation took the form of a maximum rate law and was entitled “An Act to Establish Reasonable Maximum Rates of Charges for the Transportation

of Freight and Passengers on the Different Railroads of this State".<sup>98</sup> This act, which came to be known as the "Granger Law", classified railroads according to their gross earnings per mile within the State for the preceding year. Class "A" included all railroads whose gross earnings per mile were \$4000 or more; class "B" included roads whose gross earnings were \$3000 or any sum less than \$4000; and class "C" included roads whose gross earnings were less than \$3000. For passenger transportation, roads in class "A" were allowed to charge three cents per mile; those in class "B", three and one-half cents per mile; and those in class "C", four cents per mile. A detailed schedule of rates for transporting freight, goods, and merchandise for every mile from one up to three hundred and seventy-six was included in the statute. This was followed by a classification of goods. Class "A" railroads could charge ninety per cent of the scheduled rates; class "B" railroads could charge one hundred and five per cent of the scheduled rates; and class "C" railroads could charge one hundred and twenty per cent of the scheduled rates.

Each company was required to prepare a true copy of the classification and its rates under the law for each of its freight and passenger offices; and each company was required under penalty to make an annual statement to the Governor of its gross receipts upon the entire road within the State. Discrimination was prohibited; and penalties for violation of the act were prescribed. The law took effect on July 4, 1874. It prescribed rates, classifications, penalties and punishments, and punitive damages.

The act did not aim to interfere in any way with competition. But the railroads maintained that the law reduced the rates to so low an average that business could not be done on a profitable basis. What the law really did was to equalize rates, making the average higher than it had been under the discriminating charges formerly established by

the railroads. The companies, with one or two exceptions, endeavored to obey the law; but they did so under protest. The validity of the law was tested and upheld in the courts. Indeed, the Granger cases established the doctrine that States may regulate intra-state commerce, and in so doing may fix maximum rates.

Owing to the opposition of the railroads and the lack of proper administrative machinery for effective control, the Granger Law was not successful in its operation. The impression came to prevail that the law was too rigid and did not allow the railroads sufficient freedom of action. Moreover, it was charged that the law was a check on railroad building and prevented efficient operation. And so in 1878 the act of 1874 was repealed.<sup>99</sup>

Amendatory and special acts of more or less importance continued to be enacted during the four years while the Granger Law was in force. Among these were laws pertaining to the following subjects: compensation for injuries; connecting lines; the issue of preferred stock for bonded indebtedness; crossings; the abandonment of rights of way; contracts for the use of bridges; the construction of railroads on public ways; convenient offices; relocation of roads; interference with railroad property; the contents of reports; the taking of private property; the transportation of game; tracks in streets; and the extension of foreign roads. At the same time an appeal was made to Congress to regulate freight rates and passenger fares, to grant relief to certain settlers, and to compel certain roads to do specific acts.<sup>100</sup>

*The Railroad Commission:*—At the time of the repeal of the Granger legislation the necessity for railroad regulation was recognized, but there was much difference of opinion as to the manner in which control should be administered. The law of 1878 which established a Board of Railroad Com-



missioners repealed all portions of the maximum rate law of 1874 — except that section which provided for the classification of railroads according to their earnings per mile, fixed the rates for passenger fares, and required an annual report of gross earnings. It provided for the appointment by the Governor, with the advice of the Executive Council, of three commissioners, one of whom should be a civil engineer. The commissioners were to hold office for three years, one member retiring each year. This board was to have general supervision of all railroads operated in the State as far as the safety and convenience of the public was concerned. It was the duty of the commissioners to inquire into every neglect or violation of the laws by railroad companies or their employees, and to inform themselves as to the condition of the roadbed, bridges, equipment, and management of the railroads. They could call to the attention of the companies any change in the method of operating the roads or of conducting their business which, in the judgment of the commissioners, was reasonable and expedient in order to promote the safety and convenience of the public.<sup>101</sup>

Annual reports containing statistics of the railroads were to be submitted to the Governor. These reports were to contain information relative to the cost of the road and equipment, the amount of land grants, capital stock, and the like. These reports were required to be made in accordance with a prescribed form. The commissioners were authorized to examine the books of any company, to examine officers under oath, and to subpoena witnesses. Railroad companies were required to furnish suitable cars for all purposes, and to transport freight with reasonable dispatch, to receive empty or loaded cars of connecting roads, and to charge no more for the service than other connecting roads were charged. Discrimination and unreasonable charges were prohibited.<sup>102</sup> Advisory power only was vested in the

commission, that is, no authority was granted to enforce its decrees. Violation of its orders were, however, to be reported to the legislature and publicity was depended upon to make the recommendations of the commission effective. The law remained in force for a period of ten years, during which time it appears that railroad construction was carried on very rapidly.<sup>103</sup>

Railroad regulation and control have been very closely bound up with the Board of Railroad Commissioners since its establishment in 1878. For ten years this board was an advisory or "weak" commission. Since 1888 it has been a "strong" commission with mandatory powers. The weak commission was remarkably successful in settling questions of minor importance; and in a few instances it succeeded in adjusting matters of great significance. It failed, however, where control was most needed: it could not prevent discrimination. Consequently there was much dissatisfaction with its work. In 1884 the board was given some additional power: actions against railroad companies could be brought in the name of the State upon recommendation of the board and in this manner its decrees could be enforced by the courts.<sup>104</sup>

Discrimination and abuses, however, were not eliminated; and so there was an increasing demand for more equitable rates and a more thorough control of the railroad business. In the political campaign of 1887 the main issue was State control of railroads. Both of the great political parties declared themselves in favor of legislation which would secure such control. Governor Larrabee in his first biennial message of January 11, 1888, advocated the entire abolition of the pass system, the establishment of passenger rates by law, the requirement of safety appliances, the strict regulation of Sunday trains, the election of the commissioners, and the payment by the State of the salaries of the commissioners.<sup>105</sup>

Responding to the public demand the General Assembly at its session in 1888 passed an act to regulate railroad corporations and other common carriers, to increase the power and further define the duties of the Railroad Commissioners, and to prevent and punish extortion and unjust discrimination in the rates of charges for transportation.<sup>106</sup> This law defined the term railroad to include all bridges and ferries used in connection with any railroad, also all railroads operated in connection with any railroad, whether under contract, agreement, lease, or otherwise. It made the term transportation include all instrumentalities of shipment or carriage. It defined railroad corporations to mean all corporations, companies, or individuals owning or operating railroads in the State. The law was further made to apply to all persons, firms, companies, or associations, whether incorporated or not, that might do business as common carriers upon the railways of the State.

The act defined unjust discrimination and required that all charges should be reasonable and just. It prohibited special rates, rebates, and drawbacks, but recognized the classification of goods and also permitted a lower rate per hundred pounds in carload than in less than carload lots. It made unlawful the giving of preferences to persons, firms, corporations, localities, or any description of traffic, except as to time of shipment of live-stock or perishable property. It required equal facilities for the interchange of traffic between the respective lines, and for the receiving, forwarding, and switching of cars. The Railroad Commissioners might require any common carrier to switch and transfer cars for another road for the purpose of being loaded or unloaded.

Again, the law made the carload the unit in large shipments and the hundred pounds the unit in smaller than carload shipments. The rate on one carload must be as low as that per car on any number of cars, and as low on one hun-

dred pounds as that charged per hundred pounds on any number until a carload was reached.

The law prohibited any railroad company from charging a higher rate for a shorter than for a longer distance over its railroad (which included any branch that it might operate), any part of the short haul being included within the longer. Charges for transporting freight from any given point must not be more than a fair and just rate as compared with charges from any other point. Pooling, whether of rates or carriage, was prohibited. Schedules of rates must be printed and posted. Carriage of freight must be continuous from the place of shipment to its destination.

Any person injured as the result of a violation of the law might make complaint to the commissioners or bring suit in the courts of the State. Moreover, the commissioners were given power to inquire into the management of the business of carriers; and all contracts, agreements, or documents of any kind must be produced when called for.

By this same act of 1888 the Board of Railroad Commissioners was required to make a classification and schedule of reasonable maximum rates which should be taken in the courts of the State as *prima facie* examples of reasonable and just rates. Complaints were to be made to the board, and it was the duty of the board to fix the time and place for hearings. The rate per hundred pounds must be the same for like classes of freight for like distances to all persons shipping in quantities less than carload lots; and the rate per hundred for all persons shipping in carload lots must be the same for the same distances for the same class of freight. For violations of the provisions of the law severe penalties were provided. Some passes were allowed to special classes of persons; and for the development of any new industry, special rates were permitted for an agreed number of cars, when approved by the commissioners.

Under this new law the Railroad Commissioners were

made elective. Many features of the act were taken from the former law and from the Interstate Commerce Act passed by Congress in 1887. The law was stringent in its provisions and was fought by the railroads. Having been tested in the courts and declared valid this statute, with some modifications, still constitutes the basis of railroad control in the State of Iowa; and the work of the Board of Railroad Commissioners, which has been given additional powers from time to time, has been as successful as that of any railroad commission in the United States.

It has been noted that in 1884 the Board of Railroad Commissioners was given some additional power in the matter of enforcing its decisions and that in 1888 really large powers were conferred upon it. In addition to all this, the commissioners were empowered to require railroad companies to build stations at the intersection of railroads when the commissioners deemed such stations to be necessary. Moreover, the commissioners were given power to require such information as they deemed necessary and reasonable to be included in the reports made to them by common carriers. In 1890 they were empowered to make maximum joint rates for the transportation of freight and cars over two or more lines of railroad within the State. These rates were to be reasonable and just. The board was also given authority to require any railroad in the State to improve its roadbed, bridges, crossings, or stations, change its rate of fare for transportation of passengers or freight, or change the mode of operating the road or of conducting its business. It was given the further power to investigate interstate freight rates and to appeal to the Interstate Commerce Commission when discrimination was discovered. The Attorney General was required to assist the board in its work. Furthermore, the board has power to prescribe the manner of stringing wire for the transmission of electric current. It investigates accidents on railways, prescribes the speed of

stock trains, supervises express companies, and regulates the issue of preferred stock.<sup>107</sup>

Provision was made in 1909 for the stricter enforcement of the orders of the board; and in 1911 the office of Commerce Counsel was established. The Commerce Counsel is appointed by the Board of Railroad Commissioners, subject to the approval of two-thirds of the members of the Senate in executive session. The term of appointment is for four years at an annual salary of \$5000. It is the duty of the Commerce Counsel to investigate the reasonableness of rates charged by all parties or corporations subject to the jurisdiction of the Board of Railroad Commissioners. He must also investigate the reasonableness of interstate rates. He is to assist the Board of Railroad Commissioners and prosecute cases before them, to act as their legal adviser, and to act as attorney for and represent the board in all of the courts of the State or of the United States in which the validity of any order of the board is at issue.<sup>108</sup>

The commissioners were given increased power in establishing switching rates in 1911. Substantial appropriations have been made from time to time to be expended by the board in preparing cases submitted to the Interstate Commerce Commission. The agitation for the safe operation of railroads led to legislation authorizing the commissioners to make orders prescribing safety appliances on trains and requiring sanitary conditions at stations. Moreover, in 1913 the commissioners were given power to grant franchises for the establishment of lines for the transmission of electric currents.

Although railroad legislation since 1878 has centered about the powers and duties of the Board of Railroad Commissioners many laws have been enacted, some of which are of great importance, which have not directly affected the duties of the commissioners. For example there has been legislation upon the following subjects: changing the names

of stations; fencing the right of way; depot grounds; the crossing of highways and streets; drains across the right of way; and the taking of private property for rights of way. Furthermore, scores of miscellaneous and special laws have been placed upon the statute books. A series of acts finally did away with the free pass system. An even more important group of laws provided for safety appliances, such as automatic couplers, power brakes, and the like. Railroad employees were given some measure of protection by a group of labor laws, the most important of which are those limiting the continuous service of operatives to sixteen hours, prohibiting the blacklisting of employees by railroads, providing that contributory negligence should not be a bar to recovery of work accidents, and setting aside the old assumption of risk theory and the fellow servant doctrine. Interurban railways come under the same regulatory laws as steam roads. Some important legislation has been enacted relative to the indebtedness of railroad companies; by law they are allowed to hold securities of other roads and may mortgage their own property, and in general they are given a fairly free hand in the management and control of their own financial affairs.<sup>109</sup>

In 1907 there was enacted the so-called two-cent fare law, which cut down the passenger rate one cent per mile on each class of roads. Roads in class "A" may now charge two cents per mile; those in class "B" may charge two and one-half cents per mile; while those in class "C" may charge three cents per mile. The classification is based on gross earnings.<sup>110</sup> In 1915 switching service was redefined, and semi-monthly payment of wages to employees was required of railroad corporations. The rights and duties of interurban railroads were defined, and the Board of Railroad Commissioners was given some new duties in connection with these roads. Amendatory acts and new laws of some importance were passed by the Thirty-seventh General As-

sembly in 1917 but no change of policy was made. The new laws enacted are simply additions and amendments which experience has indicated would serve to improve the law without substantially changing it.<sup>111</sup>

#### TAXATION OF RAILROADS

During the early years of railroad construction the subject of railroad taxation received little consideration. The amount of revenue needed to carry on the ordinary business of government was comparatively small and the general tax rate was very low. Railroads were demanded at any cost, and there was little thought either of their taxation or of their control. There was no special law for the taxation of railroads: they were taxed in the same manner as other corporations, that is, through the shares of stock in the hands of the individual stockholders. The law for the taxation of corporations clearly provided that the property of corporations was to be reached through the shares of stock, and provision was made for reaching non-resident stockholders; but no method was provided for the distribution of the tax among the several counties in which the corporation operated.<sup>112</sup>

The first law with special reference to railroad taxation in Iowa was enacted by the Seventh General Assembly. This law did not change the general method of taxing the roads, but it did provide for the distribution of the tax among the counties in which the road was located. The tax was to be divided among the several counties in proportion to the amount of such improvement situated in the respective counties.<sup>113</sup>

In the course of time a separate method of taxing railroad corporations was found to be necessary in order that the State might be able to meet the extraordinary expenses due to the Civil War. The gross receipts law of 1862 resulted from this necessity. Revenue was the one important con-



sideration in the enactment of this statute. Each railroad was required annually to furnish the State Treasurer with a sworn statement of its gross receipts, without reduction for expenses for the year ending on the first day of January preceding. The State Treasurer then levied, on such gross receipts, a tax of one per cent which the railroads were required to pay before February 15th. One-half of the tax thus collected was apportioned among the several counties through which the road passed, in proportion to the number of miles of main track in each county. The other one-half was turned into the State treasury. This tax was in lieu of all other taxes on that part of the property necessary for the operation of the roads.<sup>114</sup> The law remained in force until after the close of the Civil War, when the attitude of the people toward the railroads underwent some change. A slight modification was made by the act of 1868;<sup>115</sup> but in 1870 a law was enacted which, while it retained the gross receipts system, made the system progressive. The rate increased from one to three per cent, depending on the earnings of the road. Only one-fifth of the tax remained in the State treasury, the other four-fifths being apportioned among the several counties in proportion to the number of miles of track in each county.<sup>116</sup>

The forces which demanded the regulation and just taxation of railroads continued to operate; but there was much confusion in the minds of the legislators as to what should be done. The demand for local taxation was becoming general, but the idea of local assessment was opposed. Finally, it appeared that State assessment coupled with local taxation, worked out on an ad valorem basis, was the best solution. The law enacted in 1872 provided for an ad valorem system of railway taxation with unitary valuation, State assessment by the Census Board, and pro rata mileage distribution.<sup>117</sup> The Executive Council makes the assessment; and gross receipts form the chief basis of valuation.

Railroad property is valued on a unitary plan; but terminals are not valued in the cities, their value being spread over the entire railway division. Cities are unable to tax depots, machine shops, sidetracks, and the like. They may levy municipal rates only upon the pro rata valuation of main track. Mr. John E. Brindley, in his *History of Taxation in Iowa*, sums up the law in these words:

Under the provisions of the law of 1872, briefly stated, the State receives its rate on the total valuation within its borders; the county receives the usual county rate on its mileage valuation; and the same is true of the lesser taxing districts. The method of levy and collection is the same as for the general property tax; and it departs from the ordinary rules of such tax only in the method of determining and distributing the valuation of the respective lines of road.<sup>118</sup>

Some minor changes have been made in the act of 1872, but the underlying principle of law for the taxation of railroads in this State remains substantially the same as when enacted over forty years ago. The Executive Council — made up of the Governor, the Secretary of State, the Auditor, and the Treasurer, three of whom constitute a quorum — replaced the Census Board in 1873 and took over the duties of the Census Board relative to the assessment of railways. In 1878 a law provided for an additional statement from railroad companies relative to sleeping and dining cars used by them. Provision was made for determining the value of such cars and for the levy of taxes on them. Minor changes were made in 1900 in the statement required from railroads showing the daily average sleeping and dining car service on their lines.

In 1902 the time of making reports was changed and the character of the reports required to be made by railroad companies for assessment purposes was also modified. At this same session "An Act defining and providing for the taxation of freight line and equipment companies" was

passed. The act dealing with the reports required of railroad companies defined a method of ascertaining gross earnings, prescribed uniform regulations in regard to net earnings, and required that these reports on net and gross earnings should be in addition to reports already required by law. Freight line and equipment companies were clearly defined and complete statements to the Executive Council were required. A few other minor amendatory acts have been passed, but no important change has been made in the mode of railroad taxation since 1872.<sup>119</sup> The only advance has been in requiring the railroads to make more elaborate reports to the Executive Council. The method of tax distribution remains the same and the assessment is made by an *ex officio* body.

#### OTHER COMMON CARRIERS

Legislation having to do with common carriers other than railroad corporations — such as express companies, telegraph and telephone companies, fast freight companies, and the like — has been closely interwoven with railway legislation. Some important regulatory legislation has been enacted and schemes for taxing such companies have been devised.

The first law affecting carriers directly was “An Act for the relief of certain carriers”, approved on January 13, 1840. This act provided that carriers working on request or under agreement in carrying goods might retain the goods carried until payment for the carriage should be made.<sup>120</sup> In 1858 “An Act to regulate the sale of unclaimed goods, in the possession of Forwarding and Commission Merchants, Express Companies, and other common carriers” was passed. This was a long and detailed statute providing for the disposal of unclaimed goods.<sup>121</sup> Fragmentary legislation of a regulatory character has been enacted from that time to the present day. Acts to prevent

frauds, to regulate the disposal of unclaimed goods, to make common carriers liable for damage to baggage through careless handling, to prevent carriers from limiting their liability as common carriers by contracts, and to determine where actions against common carriers should be brought have been placed upon the statute books.<sup>122</sup>

With special reference to express companies a similar group of laws has been enacted. For example, such companies are required to keep offices at convenient points; they are liable for damage to baggage; they are liable for bringing liquor into the State; and they must not carry low ignition point oils.<sup>123</sup> The laws of 1888 for the regulation of railroads and other common carriers and to increase the power of the Board of Railroad Commissioners includes express companies within its scope; accordingly these companies have been under the supervision of the Railroad Commissioners since that date.<sup>124</sup> In 1896 "An Act declaring express companies, operating and doing business in this state, common carriers, and providing for their regulation and control by the railroad commissioners" placed them definitely under the board's control.<sup>125</sup> Provision was made for punishing the unlawful breaking and entering of a railroad or express car, and in 1907 express companies were again specifically declared to be common carriers and subject to regulations prescribed for railroad companies, relative to reasonable rates. Excessive rates were prohibited. A few other statutes of minor importance have been enacted.<sup>126</sup>

The taxation of express companies has been a difficult problem upon which there has been considerable legislation. During the Territorial period and in the early State period express companies were taxed under the general property tax. Later they were taxed through the shares of the stockholders. The first law for the special purpose of taxing express companies was enacted in 1868 and was entitled

“An Act in relation to Revenue and Taxing the Property of Express Companies and Telegraph Companies.” This statute provided for the taxation of express companies on their personal property, which was arbitrarily fixed at forty per cent of their gross receipts.

In 1870 express companies were again made taxable under a general property tax law which continued in force until 1896, when the system was modified by an act which provided for a tax of one dollar on every hundred dollars of gross receipts. Two years later this rate was doubled. The whole system of taxing express companies was again changed by the Twenty-eighth General Assembly. Such companies, under the law of 1900 and the amendments which have been made to it, are assessed upon their property, including their shares of stock, by a unit rule. This assessment is apportioned among the counties and townships on a mileage basis. The Executive Council also assesses freight lines and equipment companies on the cars necessarily used in their business in the State, and they are taxed at the average rate of State and local taxation.<sup>127</sup>

The *Code of 1851* provided that any person or company might build a telegraph line along any public road of the State and across rivers and lands belonging to the State or to private individuals. The fixtures were not to incommode the public, and damages were to be paid to parties over whose land the line was constructed. The proprietor of such a line was required to receive and despatch messages without unreasonable delay. He was prohibited from revealing the contents of messages, and was liable for all mistakes in transmitting messages made by any person in his employ. He was liable for all damages resulting from his failure to perform any other duty required by law. In general the laws in this State relating to telegraphs and telephones are similar to those relating to express companies. The *Code of 1873* contained one or two minor changes in the

telegraph law. Telegraph companies were required to keep offices at convenient points. In 1882 telephone companies were granted the same privileges in the matter of right of way as telegraph companies had enjoyed. Certain cities have been given power to regulate the stringing of wires. The tapping of telephone wires and malicious injury to the property of telegraph and telephone companies are prohibited.<sup>128</sup>

The taxation of telegraph and telephone companies has presented to the General Assembly a problem similar to that of taxing express companies. Before 1868 telegraph companies were included in the general property tax. In that year such corporations, together with express companies, were assessed on a personal property basis at the same rate as the property of an individual was taxed. The amount of property was arbitrarily fixed at forty per cent of the gross receipts. In 1870 a general property tax law was again applied, and in 1878 an ad valorem assessment by the Executive Council was provided for. The assessment was based on the property of the companies determined from required reports, and the taxes were to be paid into the State treasury. The rate was fixed at the average rate of the general property tax. Telephone companies were declared by the Supreme Court to be subject to this law. More complete reports were required of the companies by the *Code of 1897*, which provided that gross receipts, operating expenses, and the par and market value of the stock should be included. In 1900 the system was changed. The new system follows closely that applied to railroad corporations: the Executive Council assesses telegraph and telephone companies by the unit rule, and the assessment so made is apportioned on a basis of mileage and is taxed as other property. Electric transmission lines are taxed in a similar manner.<sup>129</sup>

## RECAPITULATION

From the above brief review it appears that the history of railroad legislation may be divided into four periods: the first period, covering about twenty years, was one of construction and indulgence; the second period was one of reaction against the railroads, and covers the years from 1870 to 1878; the third period coincides with the life of the first railroad commission, that is, from 1878 to 1888; and the fourth period extends from 1888 to the present day and includes the railroad legislation since the establishment of the present mandatory commission.

The people of the State early realized their dependence upon transportation facilities. They had attempted to improve water transportation and found it to be slow and unsatisfactory. Unable to build a system of permanent roads, they had encouraged the building of graded and plank toll roads and had been disappointed in them. The coming of the railroads was welcomed since their practicability as a means of rapid transportation had been demonstrated in the older States. It was logical, therefore, that the new State of Iowa should offer all the encouragement possible in order to stimulate the construction of railroads.

At the first session of the General Assembly an incorporation law was passed providing for the building of railroads. Congress was memorialized for grants of lands to aid in construction, and the campaign for railroad transportation facilities was begun. Congress responded with a generous land grant policy; and the people taxed themselves and made gifts of land and money in order to hasten the coming of the railroads. But railroad building progressed very slowly. The necessary capital was not available in the State, and eastern capitalists did not seem eager to invest their money until there was some prospect of immediate return. Generous gifts by the people and land grants of enormous proportions helped, however, to bring about the

desired results, and by 1870 the State was crossed from east to west by four great trunk lines — the present lines of the Illinois Central; the Chicago and North Western; the Chicago, Rock Island, and Pacific; and the Chicago, Burlington, and Quincy railroad companies.

It was about this time that a change of attitude toward railroads came to be noticeable. The roads had been financed largely by eastern capital, and they were managed by people outside the State. Care had not been taken to understand conditions and the temper of the people in the then western States. Railroad managers assumed that they were doing a great deal for the country and expected the people to accept thankfully whatever facilities were offered by the railroad companies and to pay without question whatever rates were determined by them. The people of the State, on the other hand, believed that they had the right to expect good service at reasonable rates. Moreover, the act by which the lands granted by Congress had been turned over to the railroad companies declared that all railroads accepting the lands would be subject to such rules and regulations as might be enacted by the General Assembly — a provision which had not been forgotten by the people of the State.

Furthermore, abuses had found their way into railway management. There was a very general feeling that rates were too high; discrimination was prevalent; pools were organized; and through rates for long hauls were unduly high. This last point was one of considerable importance. Indeed, a low rate for the long haul of products to eastern markets was absolutely essential to the prosperity of an agricultural State like Iowa. It is now apparent that the railroad companies pursued a short-sighted policy in not making more of an effort to satisfy shippers.

In addition to the Granger movement, which was growing rapidly and which favored stringent railroad regulation,



the panic of 1873 increased the opposition to railroads. The demand for regulatory railroad legislation was heard in all parts of the State in the campaign of 1873.

The outcome of the agitation was the maximum rate law of 1874. Although the railroad companies were hostile and indifferent to this legislation it was tested in the courts and declared to be valid. Thus it was settled that the State had the right to establish limitations upon the power of railroad companies to fix the price at which they would carry passengers and freight. The law of 1874 remained on the statute books only four years: it was repealed in 1878.

With the repeal of the maximum rate law came the establishment of the Board of Railroad Commissioners. Although the enforcement of the rate law had been an admitted failure, some form of control was clearly necessary. A commission having proven successful in Massachusetts, the Iowa legislature turned its attention to this form of control. The first Iowa commission was of the advisory type — that is, it had no power to enforce its recommendations. It was forced to rely upon public opinion, the legislature, and the courts to bring about needed changes.

The determination of rates having been left with the railroad companies, the commission devoted itself to a study of the situation and to the settlement of differences between shippers and carriers. Railroad construction was resumed with vigor. But complaints of abuses continued to be heard; nor was the commission always successful in removing the cause of such complaints. Accordingly, in 1888 the board was reorganized and changed into a strong commission with large powers.

The present mandatory commission as established in 1888 has been quite successful: industries have developed rapidly and the State has been well supplied with transportation facilities. With broad regulatory powers, the Board of

Railroad Commissioners now has general supervision over all common carriers in the State. It hears complaints, and has been instrumental in decreasing the practice of unjust discrimination. Moreover, the recent establishment of the office of Commerce Counsel to aid the commission has added to its efficiency.

Common carriers other than railroads have entered the State. But legislation relative to such companies has been fragmentary — although they have all been placed under the general supervision of the Railroad Commissioners. To this group of carriers belong the express companies, telephone and telegraph companies, freight line and equipment companies, and power transmission lines.

When railroads first came into the State they were not taxed. Later they were taxed through the shares of stock in the hands of the stockholders. The demand for revenue during the Civil War led to the gross receipts tax. After the close of the war State assessment coupled with local taxation was adopted and worked out on a basis of ad valorem taxation. This system of taxation, which has worked fairly well, has been retained to the present day.

### III

## AGRICULTURE AND STOCK-RAISING

### AGRICULTURE

Throughout its history Iowa has been primarily an agricultural Commonwealth. The chief products of the State have always come from the farms: it is a leading producer of corn, small grain, dairy products, and stock — horses, cattle, sheep, hogs, and poultry. At the same time an examination of the statute books reveals the fact that in Iowa relatively little legislation has been enacted for the promotion or regulation of agricultural interests. The first law on the subject was passed by the First Legislative Assembly of the Territory of Iowa and was entitled "An Act to provide for the incorporation of Agricultural Societies." It provided that twenty or more citizens of any county might incorporate themselves as an agricultural society for the purpose of encouraging agriculture and stock-raising by awarding prizes upon "articles, animals, mode of husbandry, or other improvements of any kind connected with agriculture or domestic mechanism".<sup>130</sup>

In 1842 another act "for the encouragement of Agriculture" provided for the organization of a Territorial Agricultural Society in the same manner as county societies were organized and with the same duties and privileges for the whole Territory. In the same manner also the organization of township societies was authorized. Twelve hundred dollars was appropriated to be divided among the several societies for the promotion of agriculture and household manufactures. Moreover, the policy of contributing to the

funds of the societies upon condition of their raising certain amounts was established at this time.

These agricultural societies were to elect officers, hold fairs, award premiums, and make reports. Section five of the act stated that it should be the duty of the officers "annually to regulate and award premiums, on such articles, productions, and improvements, as they may deem best calculated to promote the agricultural, and household manufacturing interests of this Territory; having especial reference to the nett profits which accrue, or are likely to accrue, from the mode of raising the crops or stock, or the fabrication of the article, with the intention that the reward shall be given to the most profitable or economical mode of competition"—provided the person claiming the premium should deliver to the society, "as accurate a description of the process, in preparing the soil, raising the crop, or feeding the animal, as may be; also the product of the crop, or of increase in the valuation of the animal, with a view of showing accurately the profit of cultivating the crops or feeding and fattening the animal."<sup>131</sup>

The policy of granting public aid to the Territorial Agricultural Society and to the various county societies was continued after Iowa was admitted into the Union. Indeed, the State has been generous, and the societies thus aided have done much to further the development of improved methods in agriculture, horticulture, and stock-raising. Thousands of fairs and expositions have been held and hundreds of thousands of premiums have been awarded. Reports have been published and distributed, and much valuable information disseminated among the farmers.

The act of 1857 for the encouragement of agriculture was important: it outlined the plan that has since been followed by the State in encouraging agricultural development. The first section of this measure stated that it should be the duty of all county agricultural societies (1) to offer annually

premiums for the improvement of stock, tillage crops, implements, mechanical fabrics, and articles of domestic industry, and such other articles and improvements as may be deemed proper, and (2) to regulate the amount of premiums and the grades of the same in such a manner as to allow small as well as large farmers and artisans to compete. Such societies were required to publish awards and make reports, elect officers, publish a list of rules, and to report to the General Assembly. Societies complying with the conditions and regulations imposed by the act were eligible to receive, within a certain limit, an amount of money from the State equal to the sum raised by the societies themselves.<sup>132</sup> Regular appropriations have since been made for the aid and patronage of the State Agricultural Society, which was later superseded by the State Department of Agriculture.

The establishment of the Iowa State College of Agriculture and Mechanic Arts in 1858 was an important step in encouraging the development of the agricultural resources of the State. Furthermore, many minor and amendatory acts have been passed, along with some measures of considerable importance. For example, counties were authorized to subscribe to the support of county agricultural societies in 1866. Hedging and the planting of forest trees and fruit orchards have been encouraged through tax exemptions on lands used for such purposes. Measures have been taken to encourage the destruction of thistles and other noxious weeds. The Iowa Weather and Crop Service, which has developed rapidly and proven helpful in the collection and dissemination of statistics relative to crops and weather conditions, was established in 1878. In 1892 provision was made for holding farmers' institutes, the purpose of which is to disseminate practical and scientific knowledge pertaining to agriculture in all its varied branches. Such institutes are now very popular and are of great value to the com-

munities in which they are held.<sup>133</sup> In 1900 provision was made for a more vigorous policy in regard to the encouragement of all branches of agriculture within the State. The State Agricultural Society was superseded by the newly created Department of Agriculture which was established for the promotion of agriculture, horticulture, forestry, animal industry, manufactures, and the domestic arts. It embraces all the district and county agricultural societies organized under existing statutes and entitled to receive aid from the State, the State Weather and Crop Service, the office of the Dairy Commissioner, and the office of the State Veterinarian. The department is governed by the State Board of Agriculture which consists of four ex officio members — the Governor, the President of the Iowa State College of Agriculture and Mechanic Arts, the State Dairy Commissioner, and the State Veterinarian — and of one director from each congressional district.

The State Board of Agriculture has general supervision of the several branches, bureaus, and offices embraced in the Department of Agriculture. Its duties are to look after and promote the interests of agriculture, of agricultural education, and of animal and other farm industries throughout the State; to investigate all subjects relating to the improvement of methods, appliances, and machinery, and the diversification of crops and products; and to investigate reports of the prevalence of contagious or infectious diseases among animals, or destructive insects and fungus diseases in grains, grasses, and other plants, the adulteration of foods, seeds, and products, and to report the result of such investigations with recommendations and remedial measures. The Department of Agriculture coöperates with the Iowa Agricultural Experiment Station at Ames in carrying out these investigations. The State Board of Agriculture was given full control of the State fair grounds and fairs; and it publishes and distributes the *Iowa Year Book of Agriculture*.<sup>134</sup>

In order to encourage the teaching of elementary agriculture and home economics in the rural schools of the State, a law was passed in 1911 for the purpose of aiding high schools in training teachers for service in the rural schools.<sup>135</sup> The Thirty-fifth General Assembly authorized the incorporation, in each county of the State, of an association for the advancement and improvement of agriculture, horticulture, and animal husbandry. Associations incorporated under this act may employ one or more experts or advisers for the improvement of all branches of agriculture in their respective counties. They may also hold fairs, short courses, and farmers' institutes. According to the original law, after the articles of incorporation were filed the question of a tax levy of not more than \$5000 for the purpose of improving and advancing the science and art of agriculture, animal husbandry, and horticulture, could be submitted to the voters of the county. This last provision was superseded in 1917 by a provision which authorizes boards of supervisors to contribute \$2500 per year to those county agricultural societies which have a membership of at least two hundred farmers or farm owners in the county and which have raised from among their members a yearly subscription of not less than \$500.<sup>136</sup>

It is noticeable that throughout the history of the State, legislation in regard to agriculture has been of a character to encourage improvement in agricultural methods through township, county, and State societies and farmers' institutes.

#### AGRICULTURAL EDUCATION

In this connection no attempt will be made to treat of all the legislation which has been enacted relative to the administration of the Iowa State College of Agriculture and Mechanic Arts, but it will be necessary to consider some of the measures pertaining to that institution which have to do

with the encouragement and improvement of agriculture in the State, since the agricultural college itself was established for the purpose of encouraging agriculture. The first section of the act of 1858, which established the college, reads: "*Be it enacted by the General Assembly of the State of Iowa, That there is hereby established a State Agricultural College and Model Farm, to be connected with the entire Agricultural Interests of the State.*" Section fifteen provided that "the course of instruction in said college shall include the following branches, to wit: Natural Philosophy, Chemistry, Botany, Horticulture, Fruit Growing, Forestry, Animal and Vegetable Anatomy, Geology, Mineralogy, Meteorology, Entomology, Zoology, the Veterinary Art, plain Mensuration, Levelling, Surveying, Book Keeping, and such mechanic arts as are directly connected with Agriculture. Also, such other studies as the trustees may from time to time prescribe, not inconsistent with the purposes of this act." Tuition was to be free to pupils coming from this State. A minute and accurate account with each field and of each crop was required to be kept, and such account was to include the time and manner of cultivation, the amount of seed and product, the condition of the field before planting and sowing and after harvesting, and the kind and amount of fertilizer used. A detailed record of the animals kept and of weather conditions was also required.

The secretary of the college was required to preserve documents and specimens, to encourage the formation of agricultural societies, to foster the importation of improved breeds of stock and plants, and to promote domestic manufactures.<sup>137</sup>

Moreover, it should be noted in this connection that the National government has indicated its interest in the encouragement of improved methods of agriculture by making generous land grants to States establishing agricultural colleges. Iowa was one of the States to receive such grants



The Iowa State College of Agriculture and Mechanic Arts has from its establishment done much to improve every branch of agriculture. Having had the confidence of the people of the State, it has received liberal support from the General Assembly. In many ways it has been an important factor in the agricultural development of Iowa. The law which was enacted in 1884 as a substitute for the old prescribed course of study, provides "that there shall be adopted and taught at the State agricultural college a broad, liberal and practical course of study in which the leading branches of learning shall relate to agriculture and the mechanic arts, and which shall also embrace such other branches of learning as will most practically and liberally educate the agricultural and industrial classes in the several pursuits and professions of life including military tactics."<sup>138</sup> Provision was also made in 1884 for the publication, by the State, of the annual proceedings of the Iowa Improved Stock Breeder's Association. The State coöperated with the Federal government in establishing an experiment station in connection with the college at Ames.

A School of Mines was established at Ames in 1894. In 1904 the college was designated as the State Highway Commission. Courses in clay-working, ceramics, and cements were established in 1906; and in the same year an appropriation provided for agricultural extension and experiment work, the scope of which has been enlarged by various recent statutes. Laboratories for the manufacture of hog cholera serum have also been established.<sup>139</sup>

While the legislation affecting agricultural development in Iowa has been fragmentary, the Iowa State College of Agriculture and Mechanic Arts has been a very important factor in the agricultural progress of the State. The college has coöperated with the State Agricultural Society, with the county associations, with the farmers' institutes, and with the various associations which have for their purpose some

phase of the development of the resources of the S Valuable results have been accomplished and great progress has been made in improved methods of agriculture and breeding a better grade of stock.

#### STOCK RAISING AND BREEDING: DOMESTIC ANIMALS

*Restraining Stock from Running at Large:*— During pioneer period there were few fences, and domestic animals of all kinds were allowed to run at large during at least part of the year. In 1839 a measure was passed which provided that stud-horses of the age of two years or more running at large could be taken up and gelded at the owner's risk. During the same year there was enacted a more detailed law which contained regulations regarding the lawful manner of taking up stray animals and of delivering them to their proper owners. According to its provisions stray animals could not be taken up between the first day of October and the first day of November, unless the animal should be a "work beast, and manifestly straying away from its owner." Moreover, the taking up had to be advertised, and compensation was allowed the taker-up for his trouble. In case the owner could not be found, the property, under certain conditions, would vest in the finder or taker-up.

The law of 1839 was later amended by defining the liability of persons taking up estrays. Such persons were not to abuse or neglect, sell, allow to escape, or take out of the county for more than three days any stray animal taken up by them. Other acts were passed which were applicable to certain kinds of animals and in certain counties or cities. The *Code of 1851* made provision for the recovery of damages from the owners of trespassing animals, and authorized county judges to submit to a vote of the people the question whether or not stock should be permitted to run at large.

In 1855 it was provided that "no stallion or jack, h

boar, or ram, shall, hereafter, be allowed to run at large", and other special and amendatory measures of a similar nature were enacted. The so-called herd law, enacted in 1872, was a general act to restrain stock from running at large and to make the owners of stock liable for damage done by stock at large. It provided for a referendum vote by the people of each county to determine whether or not the law should be enforced in their county.<sup>141</sup> By this time (1872) lands were pretty well enclosed, so that legislation relative to restraining domestic animals from running at large was no longer needed. It should be remembered, however, that when such laws were enacted they were of much importance to the inhabitants of a country which was almost exclusively agricultural.

*Improvement of Domestic Animals:*—Laws restraining stock from running at large fulfilled their purpose: fences were built and it became customary for owners of stock to restrain their animals as a matter of course. Meanwhile the grade of stock was being constantly improved. As early as 1888 the keepers of pedigreed bulls and stallions were required to post a copy of their certificates of registration, and it was made a misdemeanor to post a false certificate. The registration and publication of pedigrees was put in charge of the Secretary of the State Board of Agriculture in 1906. Provision was made by law for the transfer of State certificates for pure bred stallions. A more detailed act regulates the keeping and sale of registered and pedigreed stock. A veterinarian's certificate of the soundness and freedom from disease of certain pedigreed stock kept for public service is now required. Such certificates are also required for stock imported for dairy or breeding purposes.<sup>142</sup>

In 1909 an appropriation of \$10,000 was made by the General Assembly for the purpose of encouraging the dairy

industry. Inspectors were provided to inspect dairy farms, dairy cattle, dairy barns, and other buildings and appliances used in connection therewith, including dairy products, and to furnish instruction and assistance to advance the general interests of the dairy industry in the State. Appropriations for this purpose and for the encouragement of the beef cattle growing industry were continued in 1911, 1913, and 1915. The Thirty-seventh General Assembly in 1917 provided for definite State recognition for the Iowa State Dairy Association, the Iowa Beef Cattle Producers' Association, and the Iowa Corn and Small Grain Growers' Association, and assured the associations of permanent State support and encouragement. State aid was also granted to county poultry associations; and provision was made for the appointment of a State Apiarist to inspect bees and promote the production of honey.<sup>143</sup>

*Health of Domestic Animals:*—Regulatory legislation for the purpose of safe-guarding the health of domestic animals and stock has been enacted from time to time since 1862, when the importation, running at large, and sale of diseased sheep was prohibited. A similar act applicable to diseased horses and mules followed in 1866. Two years later, the importation of Texas or southern cattle was prohibited in order to prevent the spread of the so-called Texas or Spanish fever.<sup>144</sup> Losses from diseased animals led to the appointment of a State Veterinary Surgeon in 1884 "to have general supervision of all contagious and infectious diseases among domestic animals within or that may be in transit through the State", with power to establish quarantine, and to establish and enforce such rules and regulations with the concurrence of the State Board of Health, as the case demands against the spread of and for the prevention of diseases.

The services of the State Veterinary Surgeon may be ha

by boards of supervisors, by city councils, and by town or township trustees. When requested the surgeon is to go to the locality and take such action as the exigencies of the situation may demand. In case of need the Governor may appoint substitutes and assistants. When public safety requires such action the destruction of stock may be ordered, and the stock so destroyed is paid for in part by the State. An annual report is required of the State Veterinary Surgeon. Traffic in diseased hogs and cattle was prohibited in 1886; and provision was made in 1892 for the appointment of sheep inspectors by the several boards of county supervisors. Measures regulating the practice of veterinary medicine were also enacted.<sup>145</sup>

In 1906 provision was made for the inspection of registered cattle brought into the State for breeding or dairy purposes. The frequent ravages of hog cholera among the hogs of the State and the resulting loss led in 1909 to an act authorizing the State Veterinary Surgeon to establish a laboratory at Des Moines for the manufacture of hog cholera serum — such serum to be furnished to applicants at cost with instructions for its use. In 1913 the State Board of Education was authorized to abandon the Des Moines plant and a new laboratory for the manufacture of hog cholera serum, toxines, vaccines, and biological products, was established at Ames in connection with the State College of Agriculture and Mechanic Arts. Provision was also made to regulate the sale, keeping for sale, and use of such serums or vaccines throughout the State.<sup>146</sup>

By the Thirty-fourth General Assembly there was established a Commission of Animal Health, composed of the State Veterinary Surgeon, two other veterinary surgeons, and two stock-raisers to be appointed by the Governor of the State. This commission has the “power and authority to make such rules and regulations as it shall deem necessary for the prevention, suppression, or against the spread

of any contagious or infectious disease among animals in being driven or transported through or brought into the state, and may provide for quarantining against animals thus diseased or that have been exposed to others so diseased, whether within or without the State." Such rules and regulations when approved by the Executive Council are published and enforced. The recent appearance among the cattle of this and other States, of the "foot and mouth disease", led the Thirty-sixth General Assembly to make provision for the partial payment to the owners of stock of animals killed by order of the State Veterinary Surgeon in the carrying out of his duties under the laws of the State and for stricter quarantine regulations.<sup>147</sup>

*Protection of Domestic Animals and Crops:*— Finally, in connection with legislation concerning agriculture and domestic animals mention should be made of a group of laws of a protective character. Comparatively early in the history of the State measures were taken to provide for the recording and protection of marks selected by owners of stock which their stock could be identified. The driving away of stock was prohibited. Protection against horse thieves was provided. Dogs were taxed to provide a fund to compensate owners for the loss of sheep killed by dogs; and bounties were authorized for the destruction of wolves, lynx, wild cats, gophers, ground hogs, rattlesnakes, and crows.<sup>148</sup>

#### RECAPITULATION

A review of the legislation affecting agriculture and stock-raising in Iowa shows that two important lines of legislation have been developed which have had much influence in encouraging the growth of the natural industries of the State. These may be referred to as educational and protective. That is to say, there have been no laws enacted that have directly affected the production of abundant

crops or the breeding of better stock; but legislation has been enacted of a nature to indirectly accomplish the same results.

The first group of such laws has had for its purpose the encouragement of agricultural education. The policy of encouraging agricultural societies was established early and has been continued to the present time. The value of such a policy is clearly educational. Fairs and expositions have given the people an opportunity to see the best and to make comparisons between their own products and those of others. The State College of Agriculture and Mechanic Arts has provided the best of instruction to the young people of the State. It has conducted experiments and given to the people of the State the advantage of such work: it is a clearing-house for the best methods of carrying on the important industries under consideration.

The recently established Department of Agriculture is simply a better organization of what had been known as the State Agricultural Society for the collection and dissemination of valuable information concerning agriculture and the live stock industry. The provision for farmers' institutes was another advance along this same line. Provision for the instruction of pupils in the common schools in the various branches of elementary agriculture and domestic economy is the most recent development.

Protective legislation includes the several laws which have had for their purpose the improvement and the protection of live stock. The early laws to restrain stock from running at large were to protect the growing crops before fences were common.

The most important body of laws in this group consists of those statutes which have provided for the protection of the health of domestic animals. This legislation has been of great importance to the State. Contagious diseases among domestic animals every year cost the farmers and stock-

breeders of the country enormous sums. Provision has been made for a State Veterinary Surgeon who is in the general direction of all efforts to control diseases among domestic animals. Laws prohibit traffic in diseased animals and inspection has been provided for animals about to be imported into the State.

The State has also provided for the manufacture and distribution of various serums and toxins to aid in combatting disease in stock. Provision has been made for the destruction of infected stock and the partial remuneration of owners for stock so destroyed. Recently a Commission on Animal Health was established for the purpose of more effectively decreasing the loss occasioned to farmers and breeders of stock by disease. Legislation of this type has been sane and valuable.

Iowa is an extremely favorable country for agriculture and stock-raising. These industries developed naturally and without legislative aid as soon as markets for the products were available. As a result the legislation that has been passed has been incidental and indirect in effect. Technical, educational and protective legislation has been important, however, and the policy of encouraging the great industries of the State in this manner should be continued.



## IV

### MINES AND MINING

Since approximately one-third of the State is underlaid by coal beds, mining has become an important industry in Iowa. The annual output of soft coal alone is valued at more than \$15,000,000, giving employment to about twenty thousand men. But legislation relative to mines and mining, with the exception of two groups of acts, is fragmentary and of minor importance. There have been many laws of a regulatory character enacted, but since these are for the protection of mine laborers they will be treated in a chapter on labor legislation. The other important group of laws pertaining to mines and mining provides for the establishment and work of the geological survey of the State.

The only law placed upon the statute books of the Territory of Iowa on the subject of mines and mining was a special act incorporating the Dubuque Mining Company. Later legislation provided for maps of the mineral lands around Dubuque for the purposes of taxation. Provision was also made for draining mines, and for obtaining rights of way to mines; and mining under the State's property at Des Moines was prohibited. A school of mines for the State was established at the Iowa State College of Agriculture and Mechanic Arts in 1894; and in 1911 a law was passed which authorizes the board of supervisors of any county to levy a tax on all taxable property within the county, to be used in the payment of expenses incurred in prospecting for coal, on condition that the voters of the county approve of such a levy at a general election.<sup>149</sup> From the beginning the State has pursued a let alone policy with reference to the mining

industry and the conservation of the mineral resources. Indeed, with the exception of the geological survey, little has been done by the State for the encouragement of the industry.

#### THE GEOLOGICAL SURVEY

Two early attempts were made to establish a geological survey in the State of Iowa; but owing to the weakness of the legislation both efforts failed of any satisfactory accomplishment. It was a case of voting an appropriation for the beginning of a piece of work without making adequate provision for its continuance.

The primary aim of a geological survey is to discover natural resources in and beneath the soil and to encourage their development. It was in 1855 that the first attempt to provide for such a survey was made in Iowa. A State Geologist was appointed by the Governor to make a thorough geological and mineralogical survey of the State, along with an investigation of the character and quality of the soil for agricultural purposes. An appropriation was made to carry out the work for a period of only two years. The next General Assembly continued the appropriation for two years but thereafter appropriations were withheld.<sup>150</sup> Provision for a geological survey was again made in 1866. Biennial appropriations were made at the following session of the General Assembly, but in 1870 the work was once more discontinued for lack of funds.<sup>151</sup>

More than twenty years later, in 1892, renewed agitation for a survey resulted in constructive legislation. A Geological Board was established, and to this board was entrusted the appointment of individuals to carry on the work of the survey. This was the beginning of a continuous policy of scientific and economic investigation. The survey was organized as an independent agency, and was not appended to any other department of the government. An arrangement

for the printing of the reports of the survey was provided under the same conditions as pertain to other State reports. Permanent annual appropriations of moderate size rather than larger amounts for uncertain periods were favored by those interested in the measure; but this feature was not secured until a later time.<sup>152</sup>

The object of the Geological Survey has been to determine the character and distribution of the different soils and their capabilities for agricultural purposes; the extent and value of the various deposits of ores and minerals; the distribution, properties and uses of the beds of valuable clays; the accurate determination of the areas of artesian-waters; the analysis of mineral waters; and the relative value and durability of the several kinds of building stones and other structural material.

The results accomplished by the survey have more than justified the expenditures made, both in the field of agriculture and in mining, since the relation of geology to agriculture is so intimate that a good geologic map is practically also a soil map, and a thorough geological survey establishes conclusively the existence or non-existence of valuable minerals.

## V

### CONSERVATION AND INTERNAL IMPROVEMENTS

#### DAMS AND WATER POWER IMPROVEMENTS

One of the many problems which confronted the early settlers was that of obtaining power for milling grain and sawing lumber. Water being the most available power, many dams were erected across the streams and rivers in the Iowa country. The erection of such dams was easily provided for by special acts of the Legislative Assembly of the Territory. The records show that not less than forty-one special laws of this character were passed during the Territorial period. Moreover, this policy of special legislation was continued until 1855, when a general law authorizing the erection of mill dams and providing for the regulation of the same was enacted.

The special acts authorizing dams were all very much alike: the location was usually definitely specified; the parties authorized to build the dam were named; a time limit within which the dam should be completed was set, and the height of the dam was limited. In most cases localities of specified dimensions were required and were to be kept in good repair by the owner of the dam, who was to receive toll for raising boats through the locks. The lands of others were not to be damaged; while injury to the dam was prohibited under penalty.<sup>153</sup>

By the provisions of the general law of 1855, which was entitled "An Act authorizing Mill Dams", the manner in which persons owning lands on one or both sides of a stream or water course could secure the right to erect a dam was petitioning the district court was definitely prescribed. T

court's duty was to empanel a jury to examine the site and determine whether or not any one would be damaged by the proposed structure.<sup>154</sup> Other provisions similar to those contained in the special acts were included. In 1864 the act of 1855 relative to the construction of dams was made applicable to the construction of mill races; and in 1872 a law entitled "An Act to Promote Water-Power Improvements" appeared on the statute books.<sup>155</sup> By its provisions private corporations were authorized to take and hold as much real estate as might be necessary for the location, construction, and use of canals, conduits, mains, waterways, or other means or devices employed in the utilization of water power. The whole object of this law was to make possible within the State the wider utilization of the water power facilities.

The *Code of 1873* made corporations taking advantage of the provisions of the act of 1872 specifically subject to legislative control. No further laws were enacted on the subject until 1917 when the purposes for which dams could be erected were specified and provision made to prevent pollution or injury to the stream.<sup>156</sup> Agitation for the wider utilization of water power has been raised at different times, but no legislation has resulted therefrom. Throughout the State steam power, being more convenient and economical, has displaced water power almost entirely for industrial purposes.

#### DRAINAGE AND RECLAMATION

The problem of drainage is one of great importance to Iowa land-owners — especially in the northern part of the State where the level stretches of land are without natural drainage. Indeed, it is one of the most important questions of conservation with which the State has to deal. Of the 55,475 square miles of land in Iowa, it is estimated that more than four and one-half million acres, or about one-eighth of the total area, is in more or less serious need of artificial

drainage. Within the State there is a net-work of streams, channels, depressions, swamps, and lakes which may be improved by careful drainage; a series of table lands is found at the upper ends of the streams, particularly in the northern part of the State, which require the construction of artificial drains; while the alluvial valleys of the streams, which are subject to overflow and which are excellent lands for agricultural purposes, need protection by a system of levees in order to make them permanently productive.<sup>157</sup> All the natural drains of the State discharge into the Mississippi and Missouri rivers.

In order to understand the policy of the State in regard to recent drainage projects the earlier legislation concerning swamp lands in the State should be reviewed at this point. By an act of Congress of September 28, 1850, all the swamp and overflowed lands which were undisposed of at that date were granted to the State. The object of this legislation was to enable the State, by the use of the proceeds derived from the sale of such lands, to reclaim them for agricultural purposes by the construction of levees and drains.<sup>158</sup> The Fourth General Assembly, by an act approved on January 13, 1853, granted these tracts to the several counties in which they were located, on the condition that the counties would carry out the provisions of the grant relative to the protection and reclamation of swamp lands.<sup>159</sup> In this manner the State instituted the policy of leaving the drainage projects to the counties.

After the swamp lands had been turned over to the several counties the General Assembly, between 1858 and 1866, passed measures relative to the manner in which counties could dispose of such lands.<sup>160</sup> The result of all this legislation was that the counties were allowed to dispose of their swamp lands for not less than a dollar and twenty-five cents per acre. Moreover, the lands or the proceeds from the sale of such lands could be used for the erection of public build-

ings, schools, roads, bridges, or railroads, and for the reclamation of lands. The business of disposing of such lands was placed in the hands of the several county boards of supervisors; and the obstruction or injury of drainage ditches was prohibited. A controversy as to the amount of lands given to the State as swamp lands arose soon after the grant was made and extended over many years. During the same period many measures dealing with every phase of the problem were placed upon the statute books.<sup>161</sup>

As has already been stated, the Fourth General Assembly passed an act turning over to the several counties of the State all the swamp and overflowed lands which had been granted to the State by the act of Congress of September 28, 1850. The State granted these lands to the counties respectively in which they were located "for the purpose of constructing the necessary levees and drains, to reclaim the same". The balance of the land, over and above what was needed for reclamation, was to be applied to the building of roads and bridges. Provision was made for the selection of the swamp lands in the counties and for the election of drainage commissioners under whose supervision the lands were placed; and the conditions under which the commissioners could sell the lands were prescribed. Section twelve of the act required the county courts to have the swamp lands drained by the construction of the levees and drains necessary to reclaim them, and provided that when levees and drains must pass through private property a just compensation should be made to the owner for damages. The act further required surveyors to report reclaimable lands and provided that contracts for the reclamation work should be let to the lowest responsible bidder. The work of reclamation was to continue until the proceeds from the sale of the lands were exhausted or the work completed. Trespass and waste on swamp lands were prohibited under penalty.<sup>162</sup>

It should be noted that in this manner the State itself re-

fused to attempt the drainage and reclamation of swamp and overflowed lands. Consequently the drainage work that has been done has been prosecuted for the most part by the private owners of the lands drained, although recent laws have made it possible for a number of owners to join together and undertake larger projects than would otherwise be possible. These projects include the construction of ditches, the improvement of natural drainage channels, and the building of levees, such as would be required by a large number of land-owners in common and which necessitate the use of the power of the State and of legal procedure. The scheme provides for drainage on individual farms at private expense and the use of tile or open drains.

From 1862 to the present day almost every General Assembly has passed drainage measures. An increasing appreciation of the advantages of land drainage and of its profitableness has tended to increase the number of acts placed upon the statute books. In this connection no attempt will be made to trace these laws in detail, for many of them are of minor importance and space will not permit such treatment, but some attempt should be made to show the development in drainage legislation.

The Ninth General Assembly, by an act approved on March 27, 1862, defined the manner of enforcing the right of one land-owner to construct a drain across the land of another. Application had to be made to a justice of the peace who was required to issue a summons to the injured land-holder to answer such application. A jury was chosen to appraise the damages which would be sustained because of the proposed drain. If the jury was satisfied that the crossing of such a drain was necessary and proper it was required to certify the amount of the damages which, in its judgment, would accrue from the opening and crossing of the proposed drain; but each party had the right to appeal to the district court. If there was no appeal, the drain could



be constructed upon the payment of the damages assessed. Provision was also made for drains crossing the public highways and for keeping the same clean and open.<sup>163</sup>

The law of 1862 was superseded by a similar measure in 1870. This act provided that applications for ditches and drains across the lands of another should be made to the trustees of the township in which the land was situated. It was the duty of the trustees to determine whether such lands were a source of disease to the inhabitants, and whether the public health would be promoted by the proposed drain. They were to determine, also, whether the drain was necessary for the proper cultivation of the land, and whether the permanent assessed value of such land would be increased by the drain.<sup>164</sup> This law as redrawn was an attempt to overcome the constitutional objections raised against the old act on the ground that it allowed private property to be taken for private purposes.

In 1872 "An Act to Provide for locating, establishing, and constructing Ditches, Drains and Water-courses" was passed. This measure was more general in its provisions. Its purpose was to provide a method whereby whole districts could be drained. County supervisors were authorized to construct drains, ditches, or water-courses when "the same is demanded by, or will be conducive to, the public health, convenience, or welfare". Construction was to be authorized upon petition by a majority of the resident land-owners adjacent to the line of such ditch, drain, or water-course. The county auditor was required to employ a competent engineer to make a survey of the proposed improvement and report upon the feasibility of the plan; and provision was made for the compensation of those who might be damaged by the project. The work was divided into sections and let to the lowest responsible bidder; and the expense of the enterprise was to be assessed among the owners of the lands benefited by the location and construc-

tion of the improvement in proportion to the benefit to each of them. The costs and expenses were apportioned by the board of supervisors and were collected in the same manner as other taxes. The county auditor was required to keep a full and complete record of all the proceedings connected with the work.<sup>165</sup>

The law was changed to some extent in 1876, but not fundamentally. In 1878 and in 1880 such changes were made as were necessary to provide for the opening of drains through two or more counties, and railroads were authorized to condemn real estate for channels and ditches for the drainage and better protection of the right of way and road-bed. The Nineteenth General Assembly amended all the drainage laws so as to include the word "levees" as well as drains, ditches, and water-courses; and cities were given power to deepen, widen, cover, wall, or change the channel of water-courses within their corporate limits.<sup>166</sup>

Two important drainage measures were enacted by the Twentieth General Assembly. One of the acts provided for the establishment of drainage districts and for drainage projects requiring the coöperation of many land-holders. The other law provided for the construction of tile or other underground drains by private parties through the lands of others. Boards of county supervisors were authorized by the first act to establish ditches and drains along the public highways; and all levees and drains for which the funds were raised by taxation under the drainage laws of the State were declared to be under the control of the board of supervisors and were to be kept in repair at the expense of the county. The same act provided that upon the petition of one hundred legal voters of a county, setting forth that certain land was subject to overflow, or was too wet for cultivation, and that in the opinion of the petitioners the public health, convenience, or welfare would be promoted by draining or leveeing the same, the county auditor should appoint

a competent engineer or commissioner to examine the lands and to survey and locate such ditches, drains, levees, and embankments and changes in water-courses as might be necessary for the reclamation of the land. If the report of the engineer was favorable and the proposed work of improvement was determined upon, the board of supervisors was given some discretion in the manner of raising the money to pay for the construction. If in the opinion of the members of the board the estimated cost of the reclamation project was greater than should be levied and collected in a single year from the lands benefited, they were authorized to determine the amount to be levied each year and to issue drainage bonds of the county, sell the same at not less than par, and devote the proceeds to the prosecution of the improvement. The bonds were not to run for a longer period than fifteen years nor bear more than eight per cent interest. Such bonds were not to be issued in excess of fifty per cent of the value of the lands in the drainage district as shown in the last assessment for taxation; and provision was made for their payment.<sup>167</sup>

An amendment in 1888 provided that each drainage bond issued should "express on its face, that the same shall only be paid by taxes assessed levied and collected on the lands within the district so designated and numbered and for the benefit of which district said bond was issued: And provided further that in no case shall any tax be levied or collected for the payment of such bond or bonds, or the interest thereon, on any property outside of the district so numbered, designated and benefited."<sup>168</sup>

The second important drainage measure passed by the Twentieth General Assembly was entitled "An Act to Regulate and Provide for the Construction of Tile and Other Underground Drains Through the Lands of Another." This statute made it possible for any land-owner to construct drains through the lands of others in case such action

was necessary in order to obtain suitable drainage.<sup>169</sup> The Supreme Court held this law to be unconstitutional "because it permits one land-owner, for his own personal benefit, and without any consideration of the public good, to construct a 'tile or other underground drain' through the lands of another, thus taking private property for private use."<sup>170</sup> Consequently the statute was repealed by the Twenty-second General Assembly, and a substitute enacted which, by expressly providing for notice to and hearing of the aggrieved party, removed the objectionable feature of the original act.<sup>171</sup>

The drainage laws, with the exceptions noted, remained almost without change for a period of twenty years following 1884. Only minor changes were made: county auditors were required to appoint a commissioner to classify lands affected by drainage projects and to apportion costs among the same; cities were authorized to change the route of water-courses and to straighten and make other changes in them; and road supervisors were encouraged to drain the surface water from the highways. The *Code of 1897* rearranged, combined, and amended the drainage laws, but made no fundamental changes therein.<sup>172</sup>

There was much dissatisfaction, however, with the drainage laws of the State, and much litigation resulted. By decisions handed down by the Supreme Court in 1904 and 1905 a large part of the drainage law as found in the *Code of 1897* was declared unconstitutional. It was declared that "the provisions of the Code relative to the construction of drainage ditches, in so far as they provide for an estimate of the benefits of lands not abutting on the ditch and the levy of taxes thereon for such improvement without notice to the owners of such lands, are violative of the constitution, as taking private property without due process of law."<sup>173</sup> The different sections of the law as it appears in the *Code of 1897* are so interdependent that the unconstitu-

tionality of one section (1946) was held to invalidate the greater part of the drainage law (sections 1939-1951).<sup>174</sup>

The adverse decisions of the highest court in the State made the redrawing of the entire body of drainage laws advisable. Accordingly, the Thirtieth General Assembly passed a curative statute amending the section (1946) of the *Code of 1897* which had been held unconstitutional. It provided for the giving notice to all land owners affected by any proposed drainage improvement. The law was made retroactive and its validity was soon affirmed by the Supreme Court.<sup>175</sup>

The same General Assembly, by an act approved on April 29, 1904, and entitled "An Act to promote the public health, convenience and welfare, by leveeing, ditching and draining the lands of the state, and providing for the establishment of levees, drainage districts, or for the changing of natural water courses to secure better drainage, and providing for the construction of ditches, drains and watercourses and prescribing the method for so doing, and providing for the assessment and collection of the costs and expenses of the same, and issuing improvement certificates, or issuing and selling bonds therefor, additional to title ten (X), chapter two (2) of the code and code supplement" placed upon the statute books a redrawn drainage law.<sup>176</sup> The new act was comprehensive and was so drafted as to include the desirable provisions of the previous laws and at the same time be free from constitutional objections.

The first section of this act reads as follows:

The board of supervisors of any county shall have jurisdiction, power and authority at any regular, special or adjourned session, to establish a drainage district or districts, and to locate and establish levees, and cause to be constructed as hereinafter provided any levee, ditch, drain or water course, or to straighten, widen, deepen or change any natural water course, in such county, whenever the same will be of public utility or conducive to the public health, con-

venience or welfare, and the drainage of surface waters from agricultural lands shall be considered a public benefit and conducive to the public health, convenience, utility and welfare.

Upon petition the board of supervisors is required to appoint a competent engineer to examine the described lands and report to the county auditor. If the report is favorable, a hearing is set, claims for damages are examined, and damages are assessed upon the parties benefited by the proposed improvement. After advertising for bids, a contract is let to the lowest responsible bidder — the successful bidder being required to give bond equal in amount to twenty-five per cent of the estimated cost of the work. In assessing costs and damages the lands are examined by commissioners appointed for that purpose. The lands are classified — usually in forty acre tracts — in a graduated scale of benefits, to be numbered according to the benefit to be received because of the proposed improvement. In making the estimate the lands receiving the greatest benefit are to be marked on a scale of one hundred and those benefited in a less degree are marked with such percentage of one hundred as is proportionate to the benefit received. On a published date hearings are held before the board of supervisors, who may increase, diminish, annul, or affirm the apportionment as made in the report of the commissioners in such manner as may appear to the board to be just and equitable. Complete records are required to be kept by the county auditor, and provision is made for changes which it may be deemed desirable to make in the plan of improvement. The law further defines the manner in which such improvements may be constructed across railroad rights of way and across highways.

Improvements established and constructed under the provisions of this act are at all times under the control and supervision of the board of supervisors, who are charged with the duty of keeping such improvements in repair, and

for such purpose they have large powers in ordering enlargements and changes. All owners of lands assessed for the payment of the cost of the construction of drainage improvements have the right to use the improvement as an outlet for lateral drains. Sub-drainage districts are defined and provision is made for enlargements and for new districts.

The payment of the improvement tax is arranged in such a manner as to give the land-owners the option of paying the whole assessment at once or in installments. Where the estimated cost of the improvement is greater than should be levied in a single year the board of supervisors may fix the amount that shall be levied and collected each year and issue drainage bonds of the county which may be devoted at par to the payment of the work as it progresses. Such bonds are not allowed to run for a longer period than fifteen years, and the terms and times of payment of the bonds are fixed by the board. The amount of bonds issued shall in no case exceed the benefits assessed. Each bond issued must show expressly upon its face that it is to be paid only by a tax assessed, levied, and collected on the lands within the district so designated and numbered, and for the benefit of which district such bond was issued. No tax shall be levied or collected for the payment of such bonds or interest on such bonds on any property outside the district so numbered, designated, and benefited.

Adjoining land-holders may mutually agree to establish a drainage district. When such an agreement is filed with the county auditor, the improvement is carried out in the same manner as other drainage projects. Two or more counties may work out drainage districts after much the same plan as that prescribed for districts wholly within one county — the boards of supervisors of the several counties working together. Drainage districts may also include incorporated cities and towns. Boards of supervisors may, when it is

necessary, purchase a right of way for a drainage outlet from an adjoining State; and they may employ watchmen and engineers. County auditors must keep a record of all papers pertaining to drainage projects. Special provision is made for the draining of highways.

The same General Assembly passed three other acts relating to drainage projects: one was amendatory; another provided for pumping stations in levee districts; and the third related to the drainage of surface waters.<sup>177</sup> Furthermore, the Thirtieth General Assembly passed a joint resolution which was approved on April 9, 1904, proposing an amendment to the Constitution of the State of Iowa. This amendment is additional to section eighteen of article one — the section on eminent domain — which unamended reads as follows:

Private property shall not be taken for public use without just compensation first being made, or secured to be made to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

The proposed amendment added the following paragraph to the above section:

The General Assembly, however, may pass laws permitting the owners of lands to construct drains, ditches and levees for agricultural, sanitary or mining purposes, across the lands of others, and provide for the organization of drainage districts, vest the proper authorities with power to construct and maintain levees, drains and ditches, and to keep in repair all drains, ditches and levees heretofore constructed under the laws of the state, by special assessments upon the property benefited thereby. The General Assembly may provide by law for the condemnation of such real estate as shall be necessary for the construction and maintenance of such drains, ditches and levees, and prescribe the method of making such condemnation.

The proposed amendment, having been ratified by the



Thirty-first and Thirty-second General Assemblies, was submitted to the electors at the general election in 1908 and by them adopted.<sup>178</sup> After the amendment to the Constitution was proposed in 1904 no fundamental changes and few alterations of importance were made in the drainage laws of the State until 1909.

Besides making several minor changes in the drainage laws the General Assembly, in 1909, enacted a statute entitled "An Act to create the Iowa State drainage, waterways and conservation commission, and defining the powers and duties of the same."<sup>179</sup> This measure provided for a commission of seven members to be appointed by the Governor. The commissioners were to serve without compensation; they were allowed one secretary; and they were to prepare a complete report of all the investigations and recommendations of the commission and present the same to the Governor before the convening of the next General Assembly in 1911, at which time the term of service of the commission ceased. The Governor appointed seven able men to serve on the commission.<sup>180</sup> These men accepted the appointment and made a valuable study of the problem of the conservation of the natural resources of the State. The act defined the duties of the commission, in so far as they related to drainage, as follows:

It shall be the duty of this commission to investigate the entire question of the relation of the state to its waters, its forests, its soils, and its minerals. It is the intent and purpose of this bill that these investigations shall include the following:—

Art. 1. The present condition of public drainage in Iowa and the benefits which can be derived by securing the best of drainage engineering practice, the most economical administration of drainage projects, and a more economical method of financing at lower rates of interest, and show methods by which all of these benefits may be secured;

Art. 2. The present condition of all overflow of flood plain lands

of Iowa, showing losses due by floods in the destruction of farm crops, the losses due by the destruction of property, in the cities, towns, and built-up districts, the losses due by the withdrawal from crop cultivation of such flooded lands, and recommending the proper methods of prevention of such flood conditions;

Art. 3. The survey of at least one representative Iowa river to ascertain the available dam sites and the potential water-power and report the best method of procedure to bring about development of the water-powers of the state.<sup>181</sup>

Only \$2500 per year for two years was appropriated, but the commissioners assumed the duties and made a study of Iowa's economic problems as the time and funds at their disposal would permit. In the report submitted to the Governor on December 31, 1910, the commission made some important recommendations as to legislation on the subjects of drainage and levees. The substance of these recommendations was as follows:

1. Since much over-flowed land could be reclaimed by clearing out and straightening the channels of streams and by constructing levees to prevent overflows, since such work is largely of a public nature, and since the cost thereof would be too great for private parties to bear, the commission recommended that such legislation be enacted as would make this type of improvements possible. The cost involved should be borne by the national and State governments jointly, or by the several counties concerned and by the property more immediately affected, as the case might be.

2. The matter of establishing a standard test for drain tile should be referred to the Engineering Experiment Station of the Iowa State College of Agriculture and Mechanic Arts, which should make the necessary tests, preliminary to the preparation of a published report.

3. The commission pointed out the fact that contractors are usually required to accept all or a part of the contract

price in improvement certificates or bonds or both. Since they must incur the expense of marketing the bonds and the inconveniences in connection therewith they must add materially to their bids. To minimize this extra expense the commission made two suggestions: the feasibility of investing a part of the public school fund in drainage securities; and the enactment of legislation that would put the credit and borrowing power of the counties and of the State back of drainage securities.

4. Damages should be made to depend solely upon the merit of the claim, without regard to the time of filing the claim.

5. Notices calling for bids for contracts should be published in at least one standard contracting or engineering journal of general circulation, in addition to publication in the local newspapers.

6. The policy of issuing improvement certificates should be discontinued in favor of the suggestions above set forth.

7. There should be created a permanent drainage, waterways, and conservation commission of three members, one of whom should be known as the Commissioner of Drainage and Waterways.

8. The drainage and waterways commissioner should be allowed a regular salary, and his services should be available to the boards of county supervisors upon application.<sup>182</sup>

All these recommendations were supported by data showing why they were desirable and indicating something of the importance of improved drainage laws to the State.

By the Thirty-fourth General Assembly two of the recommendations made by the commissioners were enacted into law — namely the suggestion relative to the time of filing claims for damages and the recommendation in regard to publishing notices of work to be let to bidders in a contracting journal of general circulation.<sup>183</sup> The Thirty-fifth Gen-

eral Assembly provided for the election of trustees for the management of pumping stations; and in 1915 provision was made to place the management of drainage districts under trustees to be elected by the land-owners assessed for the benefit of such districts. The trustees so elected are given large powers in managing drainage districts, but they are not considered to be public officers.<sup>184</sup> Further regulations and conditions relative to interstate drainage projects were made and the drainage of highways was provided for in much the same manner as districts are drained. Several important acts amendatory to the drainage laws were passed in 1917, but no fundamental changes were made in the law. Certain sections were made more specific, others were rewritten for the sake of clearness, and some additions were made to cover omissions.<sup>185</sup>

An examination of the drainage laws of the State shows the principal features of the system in Iowa to be as follows:

1. The county boards of supervisors administer the law. The work is usually within a county, but two or more counties may coöperate. The State government itself takes no direct part in the work.

2. Proceedings are initiated by petition to the county board of supervisors or to the county auditor — the petition being signed by a certain number of land-owners. The petition describes the lands proposed to be drained and the general plan of the improvement, and asks for the establishment of a drainage district. It must be accompanied by a bond to cover all expenses in case the drainage district petitioned for is not established.

3. The board of supervisors then appoints a competent engineer to examine the feasibility of the proposed improvement and file a report containing a complete description of the lands affected, a description of the route of the drains, the probable cost, and such other facts and recommendations as he may deem material.

4. The county supervisors then examine the returns of the engineer. If the plan is approved by them notice is given to the owner of each tract of land in the proposed district, and a hearing is held at which objections to the work and claims for damages are considered. The board may then establish the district or dismiss the petition as they may deem best.

5. Upon a decision to establish the district the board appoints an engineer as a commissioner to make a permanent survey showing the levels and elevation of each forty acre tract of land affected. The board then determines the amount of damages which is to be paid by the lands benefited.

6. The board appoints an engineer to supervise the work; and after advertising for bids, lets the contracts for the work to the lowest responsible bidder.

7. Three commissioners are appointed by the board of supervisors to inspect and classify the lands benefited, and to make an equitable apportionment of the costs, expenses, costs of construction, fees, and damages assessed for the construction of the improvement, and to report in writing to the board. These assessments are a first lien upon the property benefited and are collectible in the same manner as taxes. In order to make the payment less burdensome drainage bonds may be issued to the extent of the benefits. The bonds must not bear more than six per cent interest nor run for a longer period than fifteen years, and must not be sold at less than par.

It is to be noted that land-owners are well protected: due notice of all steps in the procedure which may affect their interests is required. They may file protests against proceedings or object at public hearings to the allowance of damages and the assessment of benefits, and they may appeal to the State courts. In short the principles underlying drainage procedure in Iowa are these: all proceedings are

commenced by petition made by interested landholders; costs and damages are paid by the land-owners in proportion to the benefits received by each of them; and protection to everyone interested is provided. In the matter of drainage Iowa has done very creditable work. The drainage laws are on the whole satisfactory and progressive. Attention has been called to the absence of State-wide authority in this field of activity; and to this, no doubt, are due many of the difficulties encountered in the reclamation of the swamp and wet lands of the State.

#### CONSERVATION OF FISH AND GAME

During the early days fish and game were plentiful in the Iowa country: the tables of the pioneers were supplied with an abundance of good meats at the expense of only a few hours in hunting or fishing. As the country became more thickly settled the wild game was killed or driven further to the west until the scarcity of wild game became very noticeable and its loss keenly felt. Thus the importance of protecting the wild game of the State was forced upon the attention of the law-makers at an early date.

The first legislation for the protection of game was enacted in 1857. The statutes passed at this time made it unlawful for any person, except on his own premises, to kill, ensnare or trap any wild deer, elk or fawn, wild turkey, prairie hen, grouse, or quail between February 1st and July 15th. Furthermore, the sale of all such game was forbidden during the closed season, and having such game in one's possession was *prima facie* evidence of a violation of the law. Trespassing for the purpose of hunting during the closed season was forbidden and a penalty was provided for violation of the act.<sup>186</sup>

In 1862 a measure similar to the law of 1857, entitled "An Act to provide for the preservation of Trout in the waters of this State", was passed, making it unlawful to take trout

except by hook and line between September 15th and December 31st; and in 1872 the taking of any fish in the waters of the State, except bayous, except with hook and line, snare, or spear was prohibited.<sup>187</sup>

The game law was redrawn in 1868; the closed season limits were again changed; the buying or selling of game during the closed season was declared unlawful; common carriers were made liable to punishment for having game in their possession unlawfully during the closed season; and the penalties for the violation of the law were made more severe. Two years later it was declared unlawful to kill or trap birds, or to destroy the nests and eggs of any of the birds of the State, except birds of prey and game birds during the open season.<sup>188</sup> This was an important step, since many birds are of almost inestimable value to the farmers of the State. They destroy injurious insects of all kinds and consume the seeds of many varieties of harmful weeds.

In 1874 a law was passed which provided for the appointment of a State fish commission of three members by the Governor of the State. The general duties of the commissioners consisted in forwarding the movement to restore fish to the rivers and waters of the State, to stock the lakes and streams with fish, and to examine methods of securing the passage of fish over dams. The act further provided that dams thereafter constructed must have fishways, and it prohibited the obstructions to the free passage of fish and the use of drugs or explosives in taking fish.<sup>189</sup> This law was amended in 1876. The Board of Fish Commissioners was abandoned for one commissioner with greatly increased powers. Provision was made for hatching and distributing fish; and seining was prohibited. Two years later the Fish Commissioner was granted a regular salary of \$1200 per year; and the appropriation for the care and propagation of fish was increased.<sup>190</sup> Many amendatory acts and laws

of minor importance were passed from 1874 until the adoption of the *Code of 1897*. Of these the most important had to do with the establishment of fish hatcheries, changing the dates of closed seasons, making the laws more inclusive, and providing for the better enforcement of the laws.<sup>191</sup>

The *Code of 1897* created the office of State Fish and Game Warden. Appointed by the Governor, the warden is allowed a regular salary. The duties of the office consist (1) of managing the State fish hatcheries, which are maintained for the purpose of stocking the waters of the State with native fish, (2) of enforcing the laws relative to fish and game protection, and (3) of making biennial reports to the Governor.<sup>192</sup> Steps were taken in 1898 to provide for a more strict enforcement of the fish and game laws. Game and fish may be seized, under the provisions of this act, without warrant by wardens or peace officers. Two years later non-residents who wished to hunt on Iowa soil were required to obtain a license from the auditor of the county in which they wished to hunt. In 1909 the law was changed so as to require a hunting license of anyone wishing to hunt game with a gun, and the amount of game which could be taken was prescribed and penalties for the violation of the laws were increased. Licenses were also required of those wishing to fish in the rivers or boundary rivers of the State with the use of nets or seines, and non-residents of the State are now required to take out a license in order to fish in any manner in the streams or lakes of the State. Moreover, the title of ownership of all wild birds, game, and fish has been established in the State.<sup>193</sup>

The early protective laws were enacted from purely economic motives — the purpose being to save to the people of the State a supply of one of the necessities of life. These laws took the form of providing for closed seasons during which game could not lawfully be destroyed. They applied



to a great variety of game birds and to many flesh-producing animals. As the State became more densely settled game as an article of food disappeared, for game does not thrive on cultivated lands and in a settled region. And so the laws for the protection of game became less important. To be sure these laws have been kept upon the statute books and have been added to from time to time; but the purpose of such legislation is the preservation of game for the sportsman, rather than for those who desire to hunt for food.

With the care and propagation of fish, on the other hand, the economic motive is still important. Fish thrive in the lakes and streams and form an important article of diet. But the location of industries on the rivers of the State and the policy of draining city sewage into the rivers have caused a considerable decrease in the stock of fish. Dams on many of the rivers and streams were not constructed with fishways, and the fish have been unable to go up the streams. Besides, great wastefulness in fishing methods has long continued. Legislation to remedy these unfavorable conditions is still needed.

A survey of the legislation relative to fish and game in this State shows two methods of meeting the problem to prevent their extermination as valuable food products. One method has been prohibitory: closed seasons have been established for a part of the year or in some cases for a series of years for particular game; the buying, selling, and transportation of fish and game is prohibited or restricted; methods of taking and the number which may lawfully be taken are prescribed, as well as the size in regard to fish; attempts are made to prevent water pollution; and hunting and fishing without license is forbidden. The other method is more constructive: fish hatcheries are conducted, from which the fish are distributed to the different waters of the State; waters are restocked and fishways are required in the construction of dams; game preserves are established

and stocked with game; and the title of all game and fish in the State is declared to be vested in the State. The Fish and Game Warden has done good work, but this officer has been hampered by lack of adequate means and power of enforcing the laws.

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## VI

### GENERAL CORPORATIONS<sup>194</sup>

#### CORPORATION LAWS

The purpose of this chapter will be to indicate the development of corporation legislation in Iowa as reflected in the statutes and codes. Furthermore, only those corporations which are established and conducted for pecuniary profit will be treated in this connection. It is a fact that the corporation laws in Iowa contain very few fundamental features which are not found in the legislation of other States. Moreover, the regulatory legislation in this State has neither been extreme nor hostile to corporations.

There was no general incorporation law enacted during the Iowa Territorial period, although many corporations were formed for a variety of purposes. Canal, turnpike, milling, and insurance companies were incorporated. All corporations, whatever their purpose, were chartered by special acts of the legislature. This is not surprising, since it had been the practice of the Wisconsin Territory to incorporate business enterprises by special acts.

One of the most important measures relative to corporations enacted during the Territorial period was "An Act relative to limited Partnerships".<sup>195</sup> This law which was passed by the First Legislative Assembly of the Territory was taken directly from the laws of the original Territory of Wisconsin. It provided for the formation of limited partnerships in much the same manner as ordinary business corporations are now organized, and was the first act which attempted, in a general way, to provide for the organization and control of ordinary business enterprises other

than simple partnerships or individual enterprises. The purposes for which a limited partnership could be formed under this act were "for the transaction of any agricultural, mercantile, mechanical, mining, smelting, or manufacturing business . . . and for no other purpose whatever". Such partnerships were to be composed of two classes of partners—general and special. General partners had authority to transact the business, to sign for the partnership, and to bind the same. Such partners were to be jointly and severally responsible as ordinary general partners. Special partners were to contribute actual cash as capital to the common stock. They were limited in their liability for the debts of the enterprise to the amount of capital which each contributed.

Persons wishing to form a limited partnership were required to make and severally sign a certificate containing the following information: the name under which the partnership was to be conducted; the general nature of the business to be transacted; the names of all the general and special partners, specifying which were general and which were special and noting their respective places of residence; the amount of capital contributed by each special partner to the common stock; and the period for which the partnership was to endure, specifying the date of beginning and the date of termination.

This certificate was to be acknowledged and certified in the same manner as deeds were then certified. It was then to be recorded in the office of the register of deeds in the county in which the principal place of business of the partnership was located. Such certificates were to be recorded in a book kept for that purpose, and were to be open to public inspection. Furthermore, it was necessary for one or more of the general partners to file an affidavit stating that the sums specified in the certificate as having been contributed by the special partners to the common stock were

actually paid in cash. Failure to comply with the provisions relative to organization rendered all the interested parties liable as general partners.

The terms of the partnership were to be published; and subsequent alterations in the names of the partners, in the character of the business, in the capital or shares, or in any matter specified in the original certificate served to dissolve the partnership and rendered each partner individually liable as a general partner. Special partners were permitted to examine into the progress of the business and to advise as to its management, but they could neither transact any of the firm's business themselves nor be employed for that purpose as agent or attorney. Other sections of the law provided protection to creditors and prescribed the duties and liabilities of the partners in greater detail. The form of organization provided for in this statute presents many features similar to the business corporations of the present day, but it differs from them in several important points, the most noticeable of which are the non-transferability of shares and the limited duration of the partnership.

Besides the limited partnership law there were twenty-five special incorporating acts passed during the Territorial period. These special acts provided for the organization of as many separate concerns, of which sixteen were milling or manufacturing companies, five were insurance companies, one was a bridge company, one a turnpike company, one a mining company, and one a land company.<sup>196</sup>

An examination of these incorporating acts reveals the evils of special incorporation legislation. No two of the laws were alike. Some of the charters provided in detail for the organization and management of the concern, while others simply stated that the company was authorized to exercise the usual and necessary powers of a corporate body. There was no established policy: corporate privileges were granted and regulations imposed as the mood of the particular legislature might dictate.

The corporators in some of the companies thus formed were specifically deprived of limited liability, which is one of the chief advantages of incorporation. The personal liability of the stockholders for the corporate debts was in some instances to be applied only in case of insolvency or failure of the company. In some charters there is nothing said about the personal liability of the stockholder, while others plainly incorporate the doctrine of limited liability. The principle of control by the majority of the stock was developed in some instances, but not as a rule. Neither was the method of voting stock uniform. Some of the charters were of limited duration, and the time varied from twenty to fifty years. The regulations imposed in the various charters were not uniform. Several acts contained a clause to the effect that the act was subject to alteration, amendment, or repeal by any future legislature. Taken all together these special incorporating acts reveal a recognition of the principles of limited liability, of the law of shares, of time limit, and of regulation. All of these principles were not, however, incorporated in any one charter.

The practice of granting charters to corporations by special acts of the legislature proved to be very unsatisfactory and there was inserted in the Constitution of Iowa, adopted in 1846, the provision that "Corporations shall not be created in this state by special laws, except for political or municipal purposes; but the general assembly shall provide by general laws, for the organization of all other corporations".<sup>197</sup> This same article of the Constitution prohibited the formation of banking corporations.

In accordance with the constitutional provision the First General Assembly passed a law entitled "An Act to authorize General Incorporations", which was approved on February 22, 1847. This law was not only the first general legislation on the subject of corporations enacted in the State, but has formed the basis of all subsequent legislation

pertaining to corporations. The full text of the statute is as follows:

Section 1. *Be it enacted by the General Assembly of the State of Iowa*, That any number of persons may hereafter incorporate themselves for the transaction of any business which may be the lawful subject of a general partnership, including the establishment of ferries, the construction of railroads, and other works of internal improvement.

Sec. 2. They may make such regulations as they please in relation to the management of their business, not incompatible with an honest and legal purpose.

Sec. 3. They may render their individual interest in the corporation transferable.

Sec. 4. The death of any of its members shall not terminate the corporation.

Sec. 5. They may sue and be sued in their corporate name, and have a common seal.

Sec. 6. They may exempt private property from corporate debts, and may hold, buy and sell real estate: *Provided*, The requisitions of this act are substantially complied with.

Sec. 7. Previous to commencing business they shall adopt articles of incorporation, which shall be recorded in the office of the recorder of deeds in the county where the principal place of business is; and, further, all corporations for the purpose of constructing railroads, canals and other works of internal improvement, shall file a certified copy of their articles of association in the office of the secretary.

Sec. 8. A notice shall be published four weeks in succession in some newspaper in such county, or, if no newspaper be printed therein, then such publication shall be made in some newspaper as convenient as practicable thereto.

Sec. 9. A failure to comply with either of the requisitions contained in the two preceding sections, shall render their individual property liable on all contracts.

Sec. 10. The notice required by the eighth section shall contain:

*First* — The name of the corporation, and the principal places of transacting business.

*Second* — The general nature of the business to be transacted.

*Third* — The amount of capital stock incorporated.

*Fourth* — The amount of capital stock actually paid in, and the times and conditions on which the remainder is to be paid.

*Fifth* — The time of the commencement and termination of the association.

*Sixth* — the officers of the company, and the time of holding elections.

Sec. 11. A like publication and recording shall be made upon renewal, or any essential alteration of the articles of incorporation.

Sec. 12. The corporation shall not be permitted to continue for more than twenty years at once, but may be renewed for a like time by the unanimous consent of the corporators.

Sec. 13. The corporation cannot be voluntarily dissolved previous to the period first fixed upon, without giving the same previous newspaper publication of its dissolution, as is required by section eight in its creation.

Sec. 14. Intentional fraud in the transaction of the affairs of the company shall subject those guilty thereof to fine and imprisonment, or both, at the discretion of the court. Any person who shall receive injury from such fraud, may also recover damages therefor in civil suit against such corporation.

Sec. 15. The payment of dividends which shall leave insufficient funds to meet the liabilities of the company, shall be deemed fraud.

Sec. 16. A failure to comply with the foregoing requisitions, or a substantial departure from the articles of association, shall render the individual property of the members of the company liable for the corporate debts.

Sec. 17. Either such a departure, or the practice of fraud by the company, shall cause a forfeiture of all their privileges under this act, and the courts may proceed to wind up their business, as in cases of special corporations that have violated their charters.

Sec. 18. Legal process may be served upon any officer of the company, and, if there be no officers, then upon any member thereof. This shall be deemed sufficient service upon the company.

Sec. 19. Whenever an execution shall be issued against the company, and, after reasonable inquiries, no corporate property can be found sufficient to satisfy the same, it shall be lawful to serve a



notice upon the acting manager of the business of the company, or, if none such can be found, then upon any member thereof, requiring them to appear before the District Court of the county where the judgment was obtained, and show cause why the individual property of the members of the company should not be made liable, and, if no sufficient cause be shown then the court shall order the execution to be levied upon such property.

Sec. 20. Property seized by virtue of such execution shall only be released from the effects of the law by either:

*First* — Pointing out sufficient company property whereon to levy; in which case the costs thus far made shall be added to the amount to be collected from the company by the execution — or,

*Second* — By making and filing in the clerk's office an affidavit that the funds of the company are exhausted, and by informing the officer who made the levy of the same. In this case the officer shall forthwith make return of that fact to the court from whence the execution was issued. He shall thereupon suspend all further proceedings under the execution, and the property levied upon shall be treated as though held by virtue of a writ of attachment until the further order of the court.

Sec. 21. The plaintiff may direct a release of the property thus taken in execution, or he may appear before the District Court at the return day of the execution, or as early as practicable afterwards, and, in answer to a rule to show cause why the property should not be released, may allege such matters as will render the private property of the members of the company liable. Issue shall thereupon be joined, to be tried by a jury.

Sec. 22. Upon such trial it shall be necessary for the company to exhibit their books and papers, if required, and explain by those, or by some other means, the fairness and regularity of their business transactions. The judgment of the court shall be in accordance with the finding of the jury.

Sec. 23. Whenever the private property of one member of the company is thus held, he shall have a claim for indemnity against the company.

Sec. 24. Any of the members may sue the company at law for a private demand against the same.

Sec. 25. All corporations whose charters shall expire by their own limitations, or shall be annulled by forfeiture or otherwise, shall nevertheless be continued bodies corporate for the term of .....years after the time when they would have been so dissolved, for the purpose of prosecuting and defending suits by or against them, and of enabling them gradually to settle and close their concerns, to dispose of and convey their property, and to divide their capital stock, but not for the purpose of continuing the business for which such corporation or corporations have been, or may be, incorporated.

Sec. 26. The private property of each stockholder shall be liable for all the debts of the corporation, to the amount of stock owned by said stockholder at the time when such debts were contracted, and also to the amount of stock owned by said stockholder at any subsequent time.<sup>198</sup>

The *Code of 1851* made very few important changes in the corporation act of 1847. The subject-matter of the law was rearranged, many slight modifications were made, and several entirely new sections were added. Among the changes that should be noted are the provisions for wider publicity and for the publication of certain information relative to the by-laws, officers, capital stock subscribed, capital stock actually paid in, and the amount of indebtedness of the company. Of the nine new sections, one provided that the non-use of a franchise for two years at any one time would forfeit the franchise; another authorized the establishment of a sinking fund which could be loaned on securities until needed for the purpose of meeting the contingency for which it was established; and a third section provided that when a franchise had been levied upon under an execution and sold, the corporators should not have the power to dissolve the corporation and thus destroy the franchise. Other new sections made it possible for a single individual to incorporate under certain conditions, prohibited corporators from setting up the want of a legal organization as a

defense to an action against them as a corporation, and authorized corporations organized under the law as it appeared before 1851 to change their charters so as to entitle them to all the advantages and subject them to all the liabilities provided for by the new changes.<sup>199</sup>

The present Constitution of the State of Iowa was adopted in 1857. The subject of corporations received much consideration in the constitutional convention and the Constitution as adopted contains an article of twelve sections on corporations. Eight of these sections relate to banking and will not be considered in this connection. The other four sections, which relate to general corporations, are as follows:

Section 1. No corporation shall be created by special laws; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

Sec. 2. The property of all corporations for pecuniary profit, shall be subject to taxation, the same as that of individuals.

Sec. 3. The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the state.

Sec. 12. Subject to the provisions of this article, the General Assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the General Assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.<sup>200</sup>

There was little change made in the corporation laws for several years following the adoption of the Constitution of 1857. The section of the *Code of 1851* which provided that the individual property of all stockholders should be liable for the debts of the corporation in case the laws relative to organization and publicity were not observed was made inapplicable to railroad companies in 1858. Two years later

the law was amended to permit agricultural and horticultural societies to incorporate for any length of time, under certain conditions. By the provisions of a law of 1870 all corporations for profit were required to file articles of incorporation with the Secretary of State.<sup>201</sup>

In the *Code of 1873* the corporation law was again rearranged. A general insurance law had been enacted, so that provisions relating to insurance were omitted from the general corporation act. One new section of a regulatory character appears. It reserves to the General Assembly the right to alter or set aside by law every franchise used by any corporation. The power to regulate and impose conditions was reserved by the same section.<sup>202</sup>

Only slight changes were made in the corporation laws for several years after the adoption of the *Code of 1873*. Acts were passed for the purpose of legalizing the proceedings of corporations that had failed to comply with the law in regard to filing articles and publishing notices of their incorporation. Articles of incorporation were required to be adopted and recorded before any business was transacted and a change was made in the law to relieve corporations engaged in manufacture from double taxation. Section 1061 of the *Code of 1873*, which required articles of incorporation to specify the highest amount of indebtedness or liability to which a corporation was to be subjected, was somewhat altered. The change made the provisions inapplicable to bonds issued by a railway company for construction purposes up to a limited amount.<sup>203</sup>

The Twenty-first General Assembly enacted the first law for the regulation of foreign corporations doing business in the State. This act required any such foreign corporation to file a certified copy of its articles of incorporation with the Secretary of State. Such articles had to be accompanied by a resolution of the board of directors or stockholders authorizing the filing of the articles and author-

izing the service of process to be made upon any of its officers or agents engaged in transacting business in this State. The application must contain a statement that the corporation recognized that its permit would be subject to the provisions of the act. The law did prevent any foreign corporation from dealing in notes, bonds, mortgages or other securities, or from enforcing the collection of securities in the Federal courts as was possible before the new law was passed.<sup>204</sup>

The act expressly exempted from its operation mercantile and manufacturing companies organized in other States, and corporations exercising the right of eminent domain were specially included. Moreover, it provided for the cancellation of the permit to do business of any corporation that removed any cause of action from the State courts to the Federal courts sitting in the State, for the reason that such corporation was a non-resident, or because of local prejudice against such corporation. The latter clause was declared unconstitutional on the ground that it made the agreement not to remove cases to the Federal court a condition for obtaining a permit to do business.<sup>205</sup> Penalties were to be imposed on corporations and their agents for doing business in the State without complying with the law.

In 1888 the section of the law defining the conditions under which firms might incorporate was enlarged to include the ownership, operation, and maintenance of canals, railways, bridges, or other works of internal improvement. The purpose of organization was enlarged to include the purchase, ownership, operation, and maintenance of any railroad sold or transferred under power of sale or foreclosure of a mortgage deed or trust.<sup>206</sup> The *Code of 1897* reduced this whole section to the following simple statement: "any number of persons may become incorporated for the transaction of any lawful business, but such incorporation confers no powers or privileges not possessed by

natural persons''.<sup>207</sup> The method of amending articles of incorporation was also changed by the Twenty-second General Assembly in such a manner that articles might be changed at any annual or special meeting of the stockholders. To be valid such changes were required to be recorded and published in the same manner as the original articles.<sup>208</sup>

The Twenty-sixth General Assembly changed the conditions under which the transfer of shares of stock in corporations was valid so as to permit such shares of stock to be held as collateral security by other corporations, but the books of both corporations must show the actual condition of such holdings. At this same session of the General Assembly "An Act regulating fees for the incorporation and the increase in capital stock of companies and corporations in the state of Iowa" was passed. An incorporation fee of twenty-five dollars, with an additional fee of one dollar per thousand upon the authorized capital stock in excess of ten thousand dollars, was required of all incorporations except building and loan associations, companies organized for the manufacture of butter, cheese, or other dairy products, workmen's coöperative associations, and farmers' mutual insurance companies. The fee was limited in all cases to three hundred and fifty dollars; and all companies organized before the law was enacted were required to pay a fee of one dollar per thousand dollars of increase in capital stock, in case any increase should be made. The organization of any new corporation was held to be incomplete until the incorporation fees were paid.<sup>209</sup>

Numerous slight changes and modifications in the corporation laws and some important additions appear in the *Code of 1897*. Every corporation transacting business in the State must include in its articles of incorporation a designation of its principal place of business in the State, which place must be in charge of an agent of the company. The stock and transfer books of the company must be kept,

and its meetings held, at the place designated. Moreover, a list of officers and directors, with any change in the location of its place of business, must be filed annually with the Secretary of State.<sup>210</sup> Relative to the diversion of corporate funds, the following provision was added:

If the directors or other officers or agents of any corporation shall declare and pay any dividend when such corporation is known by them to be insolvent, or any dividend the payment of which would render it insolvent, or which would diminish the amount of its capital stock, all directors, officers or agents knowingly consenting thereto shall be jointly and severally liable for all the debts of such corporation then existing, but dividends made in good faith before knowledge of the occurring of losses shall not come within the provisions of this section.<sup>211</sup>

In the matter of issuing stock an endorsement was required on the face of the certificate or share showing the amount or portion of the par value paid for the same, together with a statement indicating whether the payment was made in money or in other property. A further addition relating to the liability of the private property of stockholders for corporate debts provided that in suits by creditors to recover unpaid installments upon shares of stock, the stockholder should be liable for the difference between the amount paid by him to the corporation for the stock and the face value of the same.<sup>212</sup>

Foreign corporations doing business in the State were required to pay the same incorporation fees and fees for the increase of capital stock as were required of companies organized in the State. Moreover, such corporations were declared to be subject to all the liabilities, restrictions, and duties that are imposed or may be imposed upon corporations organized under the laws of Iowa. Finally, the *Code of 1897* provided that courts of equity should have full power, on cause shown, to dissolve or close up the business of a corporation and to appoint a receiver for such corpora-

tion; and any foreign corporation, the stock of which was owned in whole or in part by others, was declared to have the same rights and privileges with regard to the purchase and ownership of real estate in the State as non-resident aliens.<sup>213</sup>

Many laws relating to corporations for pecuniary profit have been placed upon the statute books of Iowa since the adoption of the *Code of 1897*. In 1898 the maximum incorporation fee was changed from three hundred and fifty dollars to two thousand, and later this maximum was removed. The Twenty-eighth General Assembly provided that corporations renewing their charters should be subject to the regular incorporation fees. By a statute passed in 1904 every executor, administrator, guardian, or trustee was given the right to vote the stock in his hands at all corporate meetings the same as a stockholder; and the owner of stock levied upon by attachment or other proceedings was declared to have the right to vote the same until his title to it has been divested by an execution sale.<sup>214</sup>

During the last ten years there has been a tendency to demand a more stringent regulation of the manner in which corporations shall be allowed to conduct their business, and this demand has led to legislation by the General Assembly. In 1907 a law provided that where articles of incorporation are presented to the Secretary of State for the purpose of being filed, he shall not file them until he has determined whether they are in proper form to meet the requirements of the law, whether their object is a lawful one and not against public policy, and whether their plan for doing business is honest and lawful. If the Secretary of State refuses to file such articles the incorporators may submit the rejected articles to the Executive Council, which has the final decision in the matter. If the articles presented appear to be illegal the Secretary of State submits them to the Attorney General whose opinion as to legality is final.<sup>215</sup>



Regulation of the issue of capital stock by corporations was also prescribed in 1907. The issue of stock at less than par was prohibited. When it is proposed to pay for stock in any thing other than money the corporation must apply to the Executive Council for leave to receive such payments; and the application for such permission must state the amount of capital stock proposed to be issued for property payment and specifically define and describe the property to be received in payment for such stock. The Executive Council then investigates the proposal and fixes the value at which the corporation may receive the property in payment for capital stock. The issue of stock for such property at a greater value than that fixed and determined upon by the Executive Council is prohibited.

Every corporation issuing capital stock is required under oath to file within ten days with the Secretary of State, a certificate stating the date of issue, the amount issued, the sum received in money, or the property received if the payment is not made in money. Stock issued in violation of this provision may be cancelled and corporations violating the provisions of the act may be dissolved upon application of the Attorney General, in behalf of the State, to any court of competent jurisdiction.<sup>216</sup>

The same General Assembly imposed a severe penalty upon any director, officer, or agent of any corporation who should knowingly concur in making any false statement concerning the pecuniary condition of a corporation. Moreover, voluntary political contributions by corporations were prohibited and the soliciting of such contributions by party representatives or employees was declared unlawful.<sup>217</sup>

The laws regulating the adoption, recording, and approval of articles of incorporation, those relative to fees, place of business, and duration of charters, together with the laws pertaining to the cancellation of stock, changes in articles of incorporation, and the filing of articles of incor-

poration of foreign companies were collected and red in Chapter 104 of the laws of the Thirty-third General assembly. Chapter 105 of the laws of the same session requires an annual report and the payment of an annual license fee by every corporation doing business within the State. The purpose of this law is to enable the Secretary of State to keep fully informed in regard to the number and kinds of corporations doing business within the State.

The required report must be made upon a blank prepared by the Secretary of State and contain the following information: (1) the name and post office address of the corporation; (2) the amount of capital stock authorized; (3) amount of capital stock actually issued and outstanding; (4) the par value of such stock, designating whether preferred or common, and the amount of each kind; and the names and post office addresses of its officers and directors, and whether any change of place of business has been made during the year previous to making the report. A nominal license fee of one dollar is required; and provision is made for the forfeiture of the right to transact business in the State upon persistent refusal of any corporation to make the required report and pay the license fee. The provisions of this act do not apply to banks or insurance companies or to corporations which do not exist for the purpose of pecuniary profit. A list of all the corporations which come within the law, together with their addresses, is sent by the Secretary of State to each of the several county recorders in the State who file the same in their offices.<sup>218</sup>

Additional regulations were imposed upon foreign corporations transacting business in this State by both the Thirty-fourth and Thirty-fifth General Assemblies. Such corporations were required to comply with all the laws governing the issuance of capital stock by domestic corporations. They must make the same reports as were required of domestic corporations, and obtain a special permit

transact business within the State. Courts of equity were given the power to dissolve and terminate any such permit held by any corporation violating the provisions of the act. These regulations were made to apply specially to public utility corporations and holding companies.<sup>219</sup>

The Thirty-sixth General Assembly passed an act which provided that a public service corporation might incur an indebtedness not to exceed twice the amount of its paid-up capital stock. Special provision was made for the organization of associations for the purpose of conducting business on the coöperative plan. The following types of business firms were authorized to incorporate under this law: agricultural, dairy, mercantile, mining, manufacturing, and mechanical concerns. The fees for incorporating under this act were lower than for ordinary corporations. Companies organized under the provisions of the coöperative plan are required to have a managing board of directors of not less than five members. The ownership of stock is ordinarily limited to one thousand dollars to any one stockholder. Regulations are imposed on the conduct of the business. Shareholders are not liable for the debts of the corporation and the indebtedness of such a corporation is limited to an amount not greater than two-thirds of the capital stock.<sup>220</sup>

#### LAWS FOR THE PROTECTION OF INVESTORS

Among the various laws of a regulatory character enacted for the purpose of controlling the actions of corporations transacting business in the State there are two or three which should be noted because they were passed for the express purpose of protecting investors in corporate securities. The first measure of this type was enacted by the Thirtieth General Assembly and is entitled "An Act to provide for the regulation of persons, firms, companies, partnerships, associations or corporations, other than

building and loan associations and insurance companies and associations, which issue, place, sell or otherwise engage in the business of handling certificates, member shares, contracts, debentures, bonds, stocks, tontine contracts, or other investment securities or agreements of kind or character, on the partial payment or installment plan, prescribing the terms and conditions upon which persons, firms, companies, partnerships, associations or corporations shall be permitted to do business within the state."

The first section of this law is devoted to the definition of the terms; and the second section prescribes the manner of obtaining a certificate. No association of this character can lawfully issue any stock until it has a certificate from the State Auditor authorizing it to engage in such business. In order to obtain a certificate the association must submit a statement, under oath, with the Auditor of State, "showing the name and location of such association, the names of its officers, the post office address of its officers, the date of organization, and if incorporated and a copy of its articles of incorporation, also, a copy of its by-laws or rules by which it is governed, the form of its certificates, stocks or contracts, and any printed matter issued by it, together with a detailed statement of its financial condition and such other information concerning its affairs or plan of business as the Auditor of State may require."

The Auditor presents such information to the Executive Council for consideration. If it appears to the Council that the business is not in violation of law or of public policy and is safe and entitled to public confidence, and if the Council approves of the form of the certificate of stock or contract, the Auditor is then directed to issue a certificate of authority authorizing the association to transact business for a period of one year. Such associations are required to make an annual report to the Auditor of State showing

conditions at the close of the year, and such report must be in the form prescribed by the Auditor. If the statement of the association indicates that it is doing a safe business and is solvent its certificate may be renewed for a year. If it appears, however, that the business is unsafe or insolvent the Auditor may revoke its certificate of authority. A receiver is then appointed and the affairs of the association are closed up.

Moreover, before any association of this character is allowed to transact any business in the State it must deposit with the Auditor of State an approved bond or other approved securities to the amount of \$25,000, guaranteeing the faithful performance of all contracts made by it. After the first year the association must keep on deposit with the Auditor securities equal to the amount of liability, and at no time less than \$25,000. A fee of twenty-five dollars is required upon the granting of a certificate to do business in the State, and an annual renewal fee of ten dollars must be paid at the time of filing the annual statement.

Such associations are subject to the same examination as is provided for insurance companies, and are subject to the same fees and costs therefor, and to the same restrictions and regulations in so far as they are applicable. They may be required to produce all books and papers asked for by the examiner and "if upon examination, it shall appear that such association does not conduct its business in accordance with law, or if it permits forfeiture of payments by persons holding its stock, after three years from the issuance of said stock or provides for the payment of its expenses other than from earnings, or that any profits, advantage or compensation of any form or description is given to any member or investor over any other member or investor of the same class, or if beneficiaries are selected or determined or advantages given one over another by any form of chance, lottery or hazard, or if certificates of stock are by their

terms or by any other provision to be redeemed in numerical order or by any arbitrary order or precedence, without reference to the amount previously paid thereon by the holder thereof, or that the affairs are in an unsound condition, or if such association refuses such examination made, the auditor of state may revoke its certificate of authority to do business in this state". Severe penalties are provided for attempting to transact business without certificate of authority.<sup>221</sup>

#### BLUE SKY LEGISLATION

Many of the State legislatures have within the past few years enacted so-called "blue sky laws" in an endeavor to put an end to the swindling operations of promoters. It appears that much difficulty has been encountered in passing legislation which would prevent the sale of fraudulent securities and at the same time not place obstacles in the way of the legitimate dealer. The Thirty-fifth General Assembly enacted a "blue sky law" in 1913 which aims to prevent the sale of fraudulent securities through publicity and supervision. The act provided supervision and regulation for investment companies and required all partnership companies, or corporations offering stock, bonds, and securities to procure a license from the Secretary of State who was vested with discretionary power.<sup>222</sup> About a year after its enactment the statute was declared unconstitutional by the District Court of the United States because it imposed a direct burden on interstate commerce. The difficulties in the way of drawing a blue sky law are indicated in the opinion of the court which held the act invalid. The court said that "the act prohibits a citizen of a sister state owning and having stocks, bonds, certificates or securities, although the same are listed on the exchange of the country and have a well-established actual and sales value, from either bringing or sending them into the

for sale or negotiating for their sale to any person in the state unless he complies with the requirements of the act by obtaining from the Secretary of State and paying for a certificate as an investment company or a stock-broker and subjecting himself to its penalties, *held* . . . . not within the police powers of the state as an inspection law, but unconstitutional and invalid as imposing a direct burden on interstate commerce, and as imposing burdens upon and denying privileges to citizens of other states which are not imposed upon, and which are not granted to, citizens of Iowa.''<sup>223</sup>

In 1915 the Thirty-sixth General Assembly repealed the law of 1913 and enacted a substitute which endeavors to avoid the constitutional objections to the former law. The new statute, without the repealing clause, is entitled "An Act . . . . to prevent fraud in the sale and disposition of stocks, bonds and other securities within this state, by requiring an inspection of such stocks, bonds and other securities, and an inspection of the business of such persons, firms, associations, companies or corporations, including their agents and representatives, and the payment of an inspection fee."

The new act expressly excepts many classes of securities from its operation. Among those excepted are government and municipal securities, securities of banks, and nearly all other ordinary and regular securities. One section of the paragraph enumerating the securities to be excepted gives some indication of the class of securities which the law seeks to prevent from being marketed in Iowa. It states that the provisions of the act are not to apply to "the stock of any corporation organized under the laws of this or any other state or territory of the United States, or of the federal government, provided that under the laws of such state or territory or federal government no capital stock of a corporation can be legally issued unless the par value of

said stock is paid for in full in either cash or property of its actual value before the issuance of such stock and all property and any other thing given in exchange for stock other than cash must be valued at not more than the actual cash value by some duly appointed officer or commission of such state, territory or federal government under the laws of which such corporation is organized where such stock has been issued in accordance with the provisions of such laws."

In order to obtain a certificate of authority to transact business in the State an association must file with the Secretary of State certain papers and documents. Under the requirement the company must file a copy of its constitution and by-laws or articles of co-partnership or association, a financial statement indicating the amount of property and liabilities, a detailed statement of the plan for doing business, a copy of the securities which it proposes to issue, samples of all advertising literature to be used, a statement of the location of the business office, with the names and addresses of its officers and directors, and, if incorporated in any other State, a certified copy of its articles of incorporation. Other information may be required at the discretion of the Secretary of State.

An annual report is required of every such association authorized to transact business in the State. A simple process is provided for serving legal papers: they are subject to examination by the Secretary of State, who may inspect the books and papers. The plan of business may be changed without the consent of the Secretary of State and violation of the law or the appearance of fraud is cause for the cancellation of the permit to transact business in the State.

Companies are not allowed to advertise in a manner which would indicate that the Secretary of State had approved or that he recommended the securities offered for sale.



ing agents are required to file their appointments with the Secretary of State and obtain a permit annually, which may be cancelled for cause. Stock-brokers are required to give bonds, to obtain permits, to pay license fees, and to file every month a list of securities offered for sale and a description of those sold. Severe penalties are provided for the violation of the several parts of the law.

An attempt is made to save the law in case the validity of any one part is questioned. Thus the last section reads: "Should any section of this act or any part thereof be held by any court of competent jurisdiction to be unconstitutional, such decision shall affect the specific provision only which it is held offends against the constitution and said unconstitutional part shall not be held to be an inducement to the passage of any other section or provision of this act."<sup>224</sup>

#### ANTI-COMBINATION LAWS

Since the right to regulate interstate commerce is reserved to Congress the separate States of the Union have often been unable to regulate the conduct of corporations, even within their own borders. Especially has this been true in the matter of regulating such organizations as common carriers.

In Iowa freight pooling between competing railroads was made unlawful by a provision of the *Code of 1873*. This provision was rewritten in a law passed at the regular session of the Twenty-second General Assembly. Another act passed at the same session prohibited any corporation doing business in this State from creating or entering into "any pool, trust, agreement, combination or confederation with any other corporation, partnership or individual" for the purpose of fixing the price of any commodity. Combinations for the limitation of the supply of any commodity were also prohibited. Penalties were named and provision was made to compel witnesses to testify.<sup>225</sup>

A comprehensive anti-trust law was enacted in 1890 according to which any combination or association of individuals for the purpose of regulating the price or limiting the output of any "article, commodity or merchandise manufactured, mined, produced or sold in this state" declared unlawful. The formation of trusts and the issuance of trustee certificates was forbidden; severe penalties were named; and contracts in violation of the provisions of the act were declared void. Moreover, violation of the act served to forfeit the charter of the corporation.<sup>226</sup>

In 1896 the Twenty-sixth General Assembly passed an act to prevent combinations between fire insurance companies, for the purpose of fixing rates to be charged for insurance. The penalties for unlawful combination increased in 1907, and combinations for the purpose of fixing the price or preventing free competition in the buying and selling of grain were prohibited. The anti-combination law was again rewritten in 1909; and four years later the law was improved in the matter of obtaining information from interested witnesses.<sup>227</sup>

#### THE TAXATION OF CORPORATIONS

Special methods have been developed in a rather irregular manner for the taxation of certain classes of corporations, such as steam and interurban railroads, insurance companies, banks and trust companies, express, telephone, freight car line, and equipment companies. For general corporations no special methods of taxation have been devised.

During the Territorial period all corporations, unless they escaped taxation altogether, were taxed under the general provisions of the act making all property, real and personal, subject to assessment. In 1847 a law provided that every person should return, for assessment, the value of his interest in the capital stock, undivided profits, or mea-

every company, incorporated or unincorporated, owned by him. The *Code of 1851* required the principal accounting officer of every corporation to report and list the property of the corporation with the assessor. The State Constitution adopted in 1857 expressly provides that the property of all corporations for pecuniary profit shall be subject to taxation the same as the property of individuals. Since that time special methods of taxation have been applied to certain classes of corporations, but for those not included in the special classes little change has been made in the method of taxation.<sup>228</sup>

The law for the taxation of corporations was rewritten in the *Code of 1897*. It provides that domestic and foreign corporations, not otherwise provided for by special systems of taxation, shall pay locally the general property tax for State and local purposes. The assessment of the personal property of a domestic corporation, not expressly provided for by statute, is based on the value of the capital stock of the corporation — the actual value and not the market price — less the exempted property and the assessed value of real estate.<sup>229</sup>

Corporations are required to furnish to the local assessors verified annual statements of all necessary facts. The assessors then have the power to fix arbitrarily the value of the capital stock for taxation purposes. The tax is assessed to the corporations at their principal places of business and is paid by them. Payment of the tax gives the corporations a lien upon the stock and unpaid dividends for reimbursement from the stockholders.

Real estate owned by corporations is taxed locally in the same manner as that owned by individuals. Moneys and credits, with certain exceptions, are taxable to the owners locally for State and local purposes at the uniform rate of five mills on each dollar of actual value.

Domestic and foreign manufacturing and mercantile cor-

porations pay the general property tax locally for State and local purposes. The raw material of such concerns is assessed at the average taxable value of such on hand during the preceding year. Machinery is regarded as real estate and taxed as such.<sup>230</sup> The method of the class of corporations here considered is not clear. The various portions of the law should be collected and law redrawn as a unit.

#### RECAPITULATION

An examination of the corporation laws of Iowa reveals the fact that Iowa has been conservative in its corporate legislation. The law as it appears to-day is based largely on the act of 1847. Special laws are provided for incorporating banks, building and loan associations, fidelity companies, insurance, railroad, telegraph, telephone, water and water power companies.

The common law powers of a corporation as enumerated in the law may be summarized as follows: (1) to have perpetual succession; (2) to sue and be sued by its corporate name; (3) to have a common seal which it may alter at pleasure; (4) to render the interests of the stockholders transferable; (5) to exempt the private property of its members from liability for corporate debts, except as otherwise declared; (6) to make contracts, acquire and transfer property, possessing the same power in such respects as individuals; and (7) to establish by-laws and make all rules and regulations necessary for the management of its affairs.

Notice of incorporation must be published and the effect of such notice is prescribed, but the law does not specifically prescribe the content of the articles of incorporation. Any number of persons may incorporate under the law. There are no residential requirements for incorporators or for directors. Any number of persons may be directors, who are jointly and severally liable for the unlawful disbursement of the corporate funds.

Articles of incorporation must be recorded in the county where the principal place of business is located and in the office of the Secretary of State. Corporate indebtedness is limited to two-thirds of the amount of the capital stock, except when bonded and secured by mortgages.

An organization tax of twenty-five dollars is charged and an additional fee of one dollar per thousand dollars of capital stock in excess of ten thousand dollars. These fees are smaller for coöperative enterprises. Small fees are required for filing and recording the articles of incorporation. For extending the corporate existence the regular organization fees are charged. Moreover, an annual license fee of one dollar is required with the annual report to the Secretary of State.

Corporations may not transact any business until the articles of incorporation are filed with the Secretary of State and approved by him. Every corporation transacting business within the State is required to maintain an office in the State. Every stockholder is entitled to have a certificate for the shares held by him. The issue of preferred stock is not expressly authorized. Stock may be issued for either money or property, but the issue of stock for property is under the supervision of the Secretary of State. Transfer books are required to be kept at the principal office within the State; and such books are open to the inspection of the public.

Every corporation transacting business within the State is required to report annually to the Secretary of State. Charters may be forfeited for intentional fraud on the part of the corporation or for failure to comply substantially with the articles of incorporation and with the laws of the State. Corporate existence may be extended for an additional period of twenty years if desired. Articles may be amended by complying with the provisions of the law. Corporations may also be dissolved before the period fixed in

the articles of incorporation under certain conditions; courts of equity have power to dissolve corporation and close up their business.

Every foreign corporation must file with the Secretary of State a certified copy of its articles of incorporation. The articles must be accompanied by a resolution of the board of directors or stockholders authorizing the filing of the articles. The resolution must also appoint an agent upon whom service of process may be had within the State. Foreign corporations are required to pay the same fees and make the same reports as are required of corporations organized within the State.

Elaborate laws have been placed upon the statute book for the purpose of protecting investors in corporations, securities and for the prevention of pools, trusts, and conspiracies.

In the matter of the taxation of corporations no special system has been developed. The corporations dealt with in this chapter are taxed under the general property tax, levied in such a manner as to be applicable.

The corporation law of Iowa is neither extreme nor hostile, and contains no features not found in the law of neighboring States. The law has been amended many times and at present contains most of the essentials of a complete and satisfactory law; but it needs to be rewritten. All the parts should be brought together and construed into a comprehensive statute on corporations.

## VII

### INSURANCE LEGISLATION

#### THE EARLY PERIOD

Although insurance on a large scale is of recent development, by the time the Iowa country was first settled the business had made a substantial growth in the United States.<sup>231</sup> Indeed, before Iowa had become a separate Territory one mutual fire insurance company had been chartered by a special act of the Legislative Assembly of the original Territory of Wisconsin. This company was called the Iowa Mutual Fire Insurance Company and was chartered in January, 1838. The incorporating act simply enumerated the corporators and declared that the new company should have the same powers as those of the Milwaukee and Racine mutual fire insurance companies, which had been chartered less than one month earlier. These companies, it appears, were simple mutual fire insurance companies with ordinary corporate powers. The manner of the administration of their business was set forth in detail in the charter statute.<sup>232</sup>

After the Iowa country had become a separate Territory insurance companies were chartered by special acts of the legislature in the same manner that other businesses were incorporated. By special act the First Legislative Assembly of the Territory of Iowa incorporated one insurance company, the object of which was "to afford the members thereof the means of mutually insuring each other against loss by fire". The company was given the usual corporate powers. The organization of the company was defined in detail, and every person insured in the company was de-

clared to be a member of the company and entitled to vote for its officers. Every insured person was required to deposit his promissory note with the treasurer of the company for such a sum of money as the directors might specify, and five per cent of the amount of the note had to be paid in money. At the expiration of the term for which the insurance was to run the note, less all losses and expenses incurred during the term, was returned. Every member was bound to pay his proportional share of losses to the amount of his premium note on deposit with the treasurer. The note, moreover, gave the company a lien on the insured property. Methods of settlement were outlined in the statute. Double insurance was prohibited and no insurance could be issued until thirty thousand dollars had been subscribed. The last section of the act served to the Territory or State the right to alter or repeal the law.<sup>233</sup>

In 1840 the Bloomington Insurance Company was incorporated by a special act. This was a stock company with an authorized capital of fifty thousand dollars, divided into shares of twenty-five dollars each. The affairs of the company were to be managed by a board of nine directors elected by the shareholders. Section eight of the act declared:

That the corporation hereby created shall have power and lawful authority to insure all kinds of property against loss or damage by fire or other casualty, to make all kinds of insurances against loss on goods and merchandise in the course of transportation, whether on land or water, to make all kinds of insurance on life or live stock, to cause themselves to be insured against any loss or risk which they may incur in the course of their business, and generally to do and perform all other matters and things connected with and proper to promote those objects.

The stock was transferable and the charter was to endure for twenty years. The right to alter or repeal the act



expressly reserved. The company evidently did not organize upon receiving the charter, since in 1842 a law was passed which declared the incorporating act of 1840 to be in full force and appointed certain men to open books for stock subscriptions. An additional section to the former act stated that if the company became insolvent the stockholders would be held individually responsible for the debts of the company.<sup>234</sup>

Special acts incorporating the Dubuque Insurance Company and the Farmington Insurance Company were approved on the same day — February 17, 1842. These were both stock companies with powers and privileges similar to those granted to the Bloomington Insurance Company. They were authorized to lend surplus money under the express provision that nothing but gold and silver or notes of specie-paying banks should be loaned. The other provisions are not new. The stock was transferable and the stockholders were individually liable for the debts of the company. The charters were granted for a period of thirty years, but the right to amend or repeal them was reserved to the legislature. One other mutual fire insurance company was incorporated by special act during the Territorial period, but no new features were included in the incorporating law.<sup>235</sup>

The first Constitution of Iowa, adopted in 1846, contained a provision to the effect that corporations should not, thereafter, be created in the State by special laws; but the General Assembly was instructed to provide for their organization by general laws. The same article further provided that "stockholders shall be subject to such liabilities and restrictions as shall be provided by law" and that the State should never become a stockholder in any corporation.<sup>236</sup> A general incorporation act was passed at the first session of the General Assembly; but no special insurance law was enacted until 1857, when a general law

prescribing regulations for fire insurance companies passed.

The insurance law of 1857 was entitled "An Act in relation to insurance companies." It was regulatory in character and not applicable to the business of life insurance. Every insurance company organized under the laws of the State was required to file a certified statement with the Auditor of State and with the clerk of the district court of the county in which the company was located. This statement was required to show in detail the financial condition of the company. Semi-annual statements must also be made by every company, and such statements were to contain the name and location of the company, the amount of capital stock, the amount of capital stock paid up, the detailed assets of the company, the amount of liabilities due or not due to creditors of the company, losses adjusted and due, losses adjusted and not due, losses unadjusted, losses in suspense, all other claims against the company, and the greatest amount insured by any one risk. Penalties were prescribed for failure to make reports when due.

Under the law companies were also prohibited from holding real estate. An agent of any foreign insurance company transacting business in this State was required to obtain a certificate of authority from the State Auditor; and in order to procure such a certificate foreign companies were required to file under oath with the Auditor a financial statement similar to the one required of domestic companies. Moreover, every such company was obliged to file a copy of its articles of incorporation, together with a certified instrument authorizing its agents to acknowledge service of process for the company. A foreign company in order to transact business in this State was required to have an actual capital of at least one hundred thousand dollars invested in certain prescribed securities. Upon compliance with all the provisions of the act a foreign insurance

pany could transact business in this State. Its agents were given certificates of authority by the Auditor, and such certificates had to be renewed every year. A maximum fine of one thousand dollars was provided for the violation of any of the provisions of the act.<sup>237</sup>

Some amendments to the act of 1857 were made by the Seventh General Assembly. Any foreign company having a guarantee fund deposited in another State was required to build up such a fund in Iowa. The same act enabled agents of foreign mutual insurance companies to procure certificates of authority to transact business in Iowa, and such companies were required to be possessed of secured capital to the amount of at least one hundred thousand dollars. In 1862 the provisions of the law of 1857 were extended so as to be applicable to foreign life insurance companies. This extension did not, however, apply to foreign mutual life insurance companies, since these were permitted to transact business in the State by simply filing articles of incorporation and showing that they possessed at least one hundred thousand dollars in unencumbered assets.<sup>238</sup>

#### INSURANCE LEGISLATION OTHER THAN LIFE

The first comprehensive, general insurance legislation in the State of Iowa was enacted by the Twelfth General Assembly, which placed two laws upon the statute books. One of these laws was for the regulation of life insurance companies; and the other dealt with insurance companies other than life. These laws still constitute the basis of insurance legislation in this State. Many amendments and changes have been made, but no comprehensive revision has taken place. From that time to the present day the distinction between life insurance and insurance other than life has been observed in insurance legislation.

The first of these two laws related to insurance com-

panies other than life, and defined the procedure in the formation and organization of such companies. The method of organization followed that provided for the formation of general business corporations. Any number of persons were authorized to associate for the purpose of forming an insurance company. They were required to publish a notice of their intention, specify the name assumed, the object of the corporation, the amount of capital, and the location of the principal office. This information had also to be forwarded to the State Auditor, who submitted it to the Attorney General for examination. If the information was in accord with the law, and the name of the company not too similar to one already appropriated by another company, the certificate was approved and recorded in the same manner as articles of incorporation were approved. Before a company could transact any insurance business it was required to comply with certain other conditions.

The law authorized both joint stock companies and mutual associations. Joint stock companies were required to have a capital of not less than fifty thousand dollars nor more than one million dollars. One-fourth of the capital, in no case less than twenty-five thousand dollars, had to be paid up in cash; and shares of stock must be divided into one hundred dollars each. Mutual companies were required to have agreements with at least two hundred applicants for insurance amounting to not less than twenty-five thousand dollars, of which five thousand dollars had to be paid up and the remainder secured by notes certified to be worth their face value.

Books for subscription could be opened upon compliance with all the provisions relative to organization. Directors were required to be selected by the stockholders from among their own number — each share being entitled to one vote; and the number of directors could not be less than five nor greater than twenty-one. The investment of the capital,

accumulated funds, and surplus was limited to certain classes of securities. After examination by the Auditor of State and the filing of a certificate to the effect that all the provisions of the law had been complied with, the Auditor issued permission for the company to begin the transaction of business.

The kinds of insurance authorized comprised the following: fire, marine, and casualty; health and accident; fidelity insurance and the safe-keeping of personal property; live stock and bottomry. Each company was required to confine its business to the insurance of one of the classes enumerated; and any one risk was limited in amount to ten per cent of the paid-up capital unless the same was reinsured. The manner of holding elections of officers was prescribed; and the companies appointed their own secretaries and agents. They made their own by-laws and regulations, which were required to be open to the inspection of stockholders and persons invested by law with the right of inspection.

Shares of stock were declared to be transferable; and the capital stock could be increased up to the maximum. The making of dividends was restricted to surplus profit, and in estimating such profit a reserve of forty per cent of the amount received as premiums on unexpired risks and policies was required to be kept out. Violation of this latter provision subjected a company to a forfeiture of its charter. Insurance corporations were also limited in their power to buy and hold real estate.

The method of redeeming premium notes held by mutual companies was defined in detail, as was the method of making settlement of losses. Every mutual company was required to incorporate the word "mutual" in the title of the company, and stock companies were required to indicate the fact that they were stock companies on the face of the policies issued. Moreover, the law required every company

organized under the laws of this State, or doing business in the State, to make an annual report to the State Auditor. Such report was to be made in January and to show the condition of the company on the last day of the preceding December.

The requirements for the report were the same as at present, and included the following items and facts: the amount of capital stock of the company; the names of the officers; the name of the company and where located; the amount of paid-up capital stock; the property or assets of the company specified separately and in detail; the liabilities of the company specified in detail; the income of the company during the previous year; the expenditures during the preceding year; the largest amount insured in any one risk; the amount of risks written during the year then ending; the amount of risks in force having less than one year to run; the amount of risks in force having more than one year to run; and the dividends, if any, declared on premiums received for risks not terminated. The Auditor of State was authorized to require any other information which he might deem necessary. Accident companies were required to give many additional items.<sup>239</sup>

Every foreign insurance company was prohibited from transacting insurance business in Iowa, unless possessed of one hundred thousand dollars in actual paid-up capital exclusive of other assets or deposits. Before a foreign company could transact business in the State it was required to file with the Auditor of State a certified, signed instrument authorizing its agents to acknowledge service of process for the company. It must also file a certified copy of its articles of incorporation and a statement which was to include the same information as contained in the financial statement required of domestic companies. An agent of a foreign company was not allowed to transact business in the State until he had procured a certificate of authority from the

Auditor of State to the effect that the company had complied with the provisions of the law. Annual reports were also required of foreign companies; and penalties were provided for violation of any of the provisions of the act. Insurance companies were required to conform to the new law within a limited period.

The provisions of the law were declared to apply to all foreign companies whether partnerships, associations, or individuals, incorporated or unincorporated. The Auditor was given power to examine into the affairs of insurance companies. He was given access to books and could examine under oath. In case an examination showed the impairment of the capital of a company the business could be closed out. Requisition upon stockholders could be made by a company to replace the impairment to its capital stock. In case the deficiency was not made up in the time allotted by the Auditor the directors of the company were held to be individually liable for all losses accruing upon new risks taken after the expiration of the period set by the Auditor for making up the deficiency in the capital. If the Auditor's examination indicated that the business of a company was in an unsound condition he was authorized to revoke its certificate of authority to do business. Mutual companies were under the same regulations.

Home companies were required to pay the following fees: for filing the first examination and application and the issue of a certificate of license, ten dollars; for filing each annual statement, two dollars; for each certificate of authority, fifty cents; for every copy of paper filed, ten cents per folio and fifty cents for certifying the same. Foreign companies were required to pay an amount equal to the amount required by the laws of their respective States to be paid by Iowa companies doing business in such States. Companies were also required to pay the cost of all examinations made or caused to be made by the Auditor.

Every company transacting business in this State was required to publish annually in two newspapers of general circulation a certificate from the Auditor that such company had complied with the laws of the State relating to insurance. Such notice also contained a sworn statement of the actual amount of paid-up capital, the aggregate amount of assets and liabilities at the date of certificate, together with the aggregate income and expenditures of the company for the year preceding the issuance of the certificate.

The Auditor was authorized to prepare the forms of statements to be made and to make changes in such forms. A company was required to be either a stock company or a mutual company, and could issue only one kind of business. Ordinary mutual self-insurance companies were allowed to do business, but they were restricted to the insuring of the property owned by their own members.<sup>240</sup>

Since the enactment of the general fire insurance law in 1868 legislation on this subject has been amendatory and fragmentary in character. One series of acts had to do with the kinds of insurance permissible and the limitation of risks. New kinds of insurance were authorized by these laws, and at present nine classes of insurance are permissible. These classes include a very wide range of risks. Class one authorizes the insurance of almost every kind of destructible property against loss or damage by fire or other casualty or in transportation, and against loss of rents. Class two authorizes fidelity insurance. The third class includes the safe-keeping of books, papers, money, stocks, bonds, and all kinds of personal property. Class four is live stock insurance. Class five embraces health and accident insurance, and the insurance of employers against loss in consequence of accidents to employees. The sixth class includes loss or injury from the explosion of steam boilers. Burglary insurance constitutes class seven. The eighth class is credit insurance. Class nine includes a



variety of risks, such as all kinds of evidences of debt, transportation, and automobiles. No one company is permitted to issue policies of insurance for more than one of the nine classes of risks enumerated, except by meeting certain special requirements as to capital.<sup>241</sup>

An amendatory act passed in 1872 required foreign insurance companies, transacting business in this State, to have an actual paid-up capital of two hundred thousand dollars. Before that time the requirement had been only one-half that amount. Moreover, the act provided an elaborate system of fees, in which foreign companies were discriminated against and a policy of retaliation was instituted.<sup>242</sup>

Again, laws of a regulatory character applicable only to certain types of companies have been enacted. In 1876 foreign mutual companies having cash assets amounting to two hundred thousand dollars above liabilities were authorized to transact business in the State. Two years later a provision required insurance companies to cancel policies upon an equitable basis when requested to do so by the insured. The publication of any false statement relative to the financial standing of a company was prohibited during the same year. The Eighteenth General Assembly made further provision for the protection of policy-holders and the cancellation of policies. In 1894 the Auditor of State was required to refuse to authorize those companies to do business in the State which stipulated in their policies that the assured must bear a certain percentage of the loss. Combination between companies for the purpose of fixing rates was prohibited in 1896; and the same General Assembly passed a law expressly prohibiting any company which had not complied with all the provisions of the law from transacting business in the State.<sup>243</sup>

No further amendments of importance were made until 1907. But it should be noted in this connection that begin-

ning with the Thirtieth General Assembly there has been an increasing body of legislation enacted which is applicable to all kinds of insurance companies. This group of laws will be discussed below.

The Thirty-second General Assembly passed "An Act providing for a uniform policy to be used by all fire insurance companies doing business in the state of Iowa." By the provisions of this act it was made unlawful for any insurance company to issue any policy of fire insurance upon any property in the State other or different from the standard form of policy provided. Certain additions, riders, and clauses were, however, permitted to appear on the policy. For instance, it was made lawful for a company to set forth its name and certain descriptive data relative to the company. It could also describe the property insured and the conditions in cases of extra hazard. There were also additions permissible in case of double insurance; and the provisions required by law to be printed on policies were to be so specified. Each policy issued had to bear the words: "Iowa Standard Fire Insurance Policy".

The standard form of the policy is drawn with the purpose of protecting both the party insured and the company, by requiring all conditions under which the risk is taken by the company to appear in full. The smallest size of type allowable is prescribed and the manner of arrangement of the conditions is designated. The law aims to secure uniformity and to prevent misunderstanding by prescribing a standard form of contract to be used by all companies doing business in the State. Violation of any of the provisions of the act is a misdemeanor, and any company found guilty of such violation is disqualified from doing business in the State until the fines for violation are paid. Companies writing policies in violation of the act, however, are bound by any contract made in violation of the law.<sup>244</sup>

The Thirty-third General Assembly further defined the

securities in which insurance companies are allowed to invest funds. In 1911 insurance companies were authorized to provide for a co-insurance clause to be attached to the regular policies in certain cases, upon the written request of any person desiring insurance. The form of such clause is prescribed and the conditions under which it may be attached are specified.<sup>245</sup>

Further regulations for insurance companies other than life were prescribed by the Thirty-sixth General Assembly. Policies may appear in the name of the issuing company only. Misleading statements relative to the company or agency were prohibited. A complete rating bureau act was also placed upon the statute books, but was repealed two years later. The Thirty-seventh General Assembly rewrote several sections of the insurance law. Such sections were made both more specific and more inclusive. The section defining the kind of company was re-stated and the conditions under which mutual companies may transact business were clearly set forth and provision made for regulating employer's liability and workmen's compensation insurance. Membership in mutual companies is defined; every policy-holder is declared to be a member and entitled to vote; and maximum premiums, unearned premiums, and assessments are defined and regulated. Conditions under which existing companies may come under the new provisions are defined and the requirements relative to the financial statement to be submitted to the Commissioner of Insurance are set forth. The requirements relative to foreign companies doing business in this State were re-stated and supplemented.<sup>246</sup>

*Mutual Assessment Insurance Associations:*—Mutual assessment insurance associations are associations in which a number of persons may enter into contracts with each other for the insurance of their property against loss or

damage. Such companies exist only for the protection afforded and not for profit. Companies of this class were authorized by special acts of incorporation before any general insurance laws were placed upon the statute books of the State. Provision for their organization and regulation by general legislation was first made in the insurance act of 1868. No changes relative to such companies were made in the *Code of 1873*, but beginning with the Fifteenth General Assembly a separate body of law has developed, with special reference to mutual assessment associations.<sup>247</sup>

The Seventeenth General Assembly enacted a law for the regulation of mutual companies. It required every such association to report annually to the State Auditor; and foreign companies of this character were required to have a certain guaranteed capital before being permitted to transact business in the State. Moreover, mutual associations were required to pay the same fees when making annual reports as were paid by other companies. The purposes for which such associations might be formed were made more inclusive from time to time, and various regulatory acts were passed.<sup>248</sup>

The laws applicable to mutual associations were collected, arranged, and placed in one chapter of the *Code of 1897*; and in 1907 the law was rewritten and expanded. As the law now stands mutual associations may be organized in the same manner as other insurance companies are formed. They may be organized for the insurance of property against loss or damage by fire, lightning, tornadoes, hailstorms, cyclones, windstorms, or theft, and to insure plate glass against breakage. They may insure only the property belonging to the members of the associations, and church or school property within the territory in which they do business; and they may reinsure the risks of similar associations.

State or county associations may be formed. Every such

company must have the words "mutual" and "association" incorporated in its title. There is a minimum amount of business required below which a mutual association may not be authorized to operate. Every such association is required to report annually, in January, to the Commissioner of Insurance upon blanks furnished by him for that purpose. The information required to be included in this report covers every phase of the business and shows clearly the amount and kind of business done and the financial condition of the association. These reports are published in the *Iowa Insurance Report* along with the annual reports of other companies doing business in the State.

Mutual assessment associations are obliged to pay the same fees for annual reports and annual certificates of authority as are paid by domestic fire insurance companies. State mutual associations are authorized to build up a re-insurance reserve. The maximum liability of members must be fixed by the associations and specified in their policies. Assessments may be made upon the members of any mutual association on a pro rata basis when the assets of the company are insufficient to pay losses and expenses. In case of insolvency such a ratable assessment may be levied as is necessary to meet the liabilities of the association. Provision is made for the cancellation of policies; and some regulations relative to officers and meetings are prescribed.<sup>249</sup>

According to the *Iowa Insurance Report* for 1913 there were one hundred and fifty-four county, twenty State, and ten tornado and hail mutual assessment associations doing business in the State of Iowa in 1912. These companies had a total of \$695,725,533 worth of risks in force on January 1, 1913.<sup>250</sup>

The Thirty-seventh General Assembly enacted a law in 1917 which authorizes and provides for the regulation of reciprocal or inter-insurance contracts among individuals,

partnerships, and corporations in the State of Iowa. An inter-insurance association has some of the characteristics of mutual associations and some of the Lloyds. They are usually composed of merchants or manufacturers for the purpose of collectively insuring each other. Each member agrees to be liable to a certain amount; and each member is both insured and insurer. He is debited or credited on each risk according to the outcome. Usually the same premiums are charged as are charged by stock companies and the returns made on the basis of the experience in each risk amount to a partial return of the premium — although the return may not be directly proportional to the premium.

The act authorized insurance of this character and set forth regulations governing the execution of contracts and the location and power of the attorney. Each association, through its attorney, must file with the Commissioner of Insurance a certified statement setting forth the name of the attorney or designation under which contracts are issued; the location of the principal office; the kinds of insurance to be effected; a copy of each form of policy or contract under which insurance is to be effected; a statement to the effect that the minimum number of applications have been made on the minimum number of separate risks aggregating not less than a specified amount, or in case of employer's liability or workmen's compensation insurance, covering a total pay-roll of not less than two and one-half million dollars; a statement that there is in the hands of the attorney a specified minimum amount for the payment of losses and assets of a certain amount; a certified financial statement; an instrument authorizing service of process; and a certificate showing the deposit of funds. Methods of serving process and rendering judgment are specified. Regulations as to statements and reports are prescribed. The power to enter such contracts is extended to all corporations organized under the laws of this State. Attorneys are required to

give bonds. The same fees are charged that are required of mutual associations, and an annual tax of two and one-half per cent on the gross premiums collected in the State during the year is required. Contracts are regulated, reinsurance is permitted under certain conditions, and penalties are prescribed for the violation of any of the provisions of the act.<sup>251</sup>

#### LEGISLATION PERTAINING TO LIFE INSURANCE

The law of 1868 still remains the foundation of life insurance legislation in Iowa. This law outlined regulations for all life insurance companies transacting business in the State. It included both domestic and foreign companies; and its provisions applied to joint stock companies and to associations organized upon the mutual plan. An examination of this early act is necessary in order to understand the law as it stands to-day.

Under the provisions of the life insurance act of 1868 stock companies were required to have a capital of at least one hundred thousand dollars, one-fourth of which had to be paid-up and invested in certain classes of securities and deposited with the Auditor of State. Upon satisfactory evidence that the capital stock had all been subscribed in good faith and that the required amount had been deposited with the Auditor, a certificate was issued to the company. A mutual company could secure a certificate of authority to transact business in the State only on the condition that it have at least two hundred and fifty bona fide applications for insurance for an average amount of one thousand dollars each. A list of the applications for insurance and a deposit in an amount equal to three-fifths of the whole annual premium on the application had to be deposited with the Auditor of State.

Every foreign company seeking to do business in this State was required to have a capital of at least one hundred

thousand dollars, invested in certain designated classes of securities. Such securities were to be on deposit with the chief financial officer of the State in which the company was incorporated. Every foreign company was required to appoint an attorney in each county in the State in which an agency of the company was to be located, upon whom process of law could be served. A certified copy of the articles of incorporation had also to be filed with the Auditor of State. An annual statement, of the same form as the statement required of similar domestic companies, was required of every foreign company. Every agent of any foreign company before transacting any business was, moreover, required to obtain a certificate of authority from the Auditor, stating that the company represented had complied with the provisions of the Iowa insurance law.

Every life insurance company, whether domestic or foreign, transacting business in this State was required to prepare under oath and deposit with the State Auditor an annual report. Such report was to be made in January of each year and must show the condition of the company on the last day of the preceding year. This statement, which is still required, must contain the following information:

1. The name of the company and where located;
2. The names of officers;
3. The amount of capital, if a stock company;
4. The amount of capital paid in, if a stock company;
5. The value of real estate owned by the company;
6. The amount of cash on hand;
7. The amount of cash deposited in banks, giving the name of bank or banks;
8. The amount of cash in the hands of agents, and in the course of transmission;
9. The amount of bank stock, with the name of each bank, giving par and market value of the same;
10. The amount of bonds of the United States, and all other



bonds and securities, giving names and amounts, with the par and market value of each kind;

11. The amount of loans secured by first mortgage on real estate, and where such real estate is situated;

12. The amount of all other bonds, loans, how secured, and the rate of interest;

13. The amount of premium notes and their value on policies in force, if a mutual company;

14. The amount of notes given for unpaid stock, and their value in detail, if a stock company;

15. The amount of assessments unpaid on stock or premium notes;

16. The amount of interest due and unpaid;

17. The amount of all other securities;

18. The amount of losses due and unpaid;

19. The amount of losses adjusted but not due;

20. The amount of losses unadjusted;

21. The amount of claims for losses resisted;

22. The amount of money borrowed and the evidences thereof;

23. The amount of dividends unpaid on stock;

24. The amount of dividends unpaid on policies;

25. The amount required to safely reinsure all outstanding risks;

26. The amount of all other claims against the company;

27. The amount of net cash premiums received;

28. The amount of notes received for premiums;

29. The amount of interest received from all sources;

30. The amount received from all other sources;

31. The amount paid for losses;

32. The amount of dividends paid to policy holders, and the amount to stockholders, if a stock company;

33. The amount of commissions and salaries paid to agents;

34. The amount paid to officers for salaries and other compensation;

35. The amount paid for taxes;

36. The amount of all other payments and expenditures;

37. The greatest amount insured on any one life;

38. The amount deposited in other states or territories as security for policy holders therein, stating the amount in each state or territory;

39. The amount of premiums received in this state during the year;

40. The amount paid for losses in this state during the year;

41. The whole number of policies issued during the year, with the amount of insurance effected thereby, and total amount of risk;

42. All other items of information necessary to enable the auditor to correctly estimate the cash value of policies, or to judge of the correctness of the valuation thereof.

The Auditor was authorized to determine the net cash value of each policy upon the basis of specified mortality tables. Upon the establishment of such value every company was required to deposit with the State Auditor securities, of a specified class, to the amount of the ascertained valuation of all its policies within the State. Foreign companies were required to make such a deposit only in case a similar deposit was not required by the laws of the State in which they were incorporated.

Upon compliance with the preceding conditions the Auditor issued a certificate to each company authorizing it to transact business in the State for a period of one year from the date of the certificate. A failure to comply with the provisions of the law was cause for the dissolution of home companies and for the forfeiture of foreign companies' right to do business in the State. The Auditor was also authorized to cause examination to be made into the affairs of any company doing business in the State at any time. If any such company was found to be in an unsound condition it could be enjoined from transacting business in Iowa and its certificate of authority withdrawn. Securities of a defaulting company, on deposit with the Auditor, became vested in the State for the benefit of the policies on which such deposits were made. Life insurance was declared to

be exempt from execution for the debts of the insured person.

A retaliatory system of fees was provided for foreign life insurance companies. The fees and penalties for such companies were to be as great as those required of Iowa companies doing business in their respective States. Each company was charged the following fees: for filing each annual statement, including the first application of any company, five dollars; annual certificates of authority to transact business in the State, one dollar; for the annual valuation of policies, five cents per thousand dollars of insurance; for changing securities, twenty-five cents per thousand dollars; and for examination, five dollars per day spent in making such examination and necessary expenses.

The classes of securities in which insurance funds could be invested were enumerated. They were United States stocks, State stocks, and bonds or mortgages on unencumbered real estate worth at least twice the amount loaned thereon. Insurance companies were limited in their power to purchase and hold real estate. Charters of life insurance companies were to run fifty years, and were renewable.<sup>252</sup>

The Fourteenth General Assembly made some important changes in the law of 1868. The basis for the valuation of life policies was changed from Dr. Farr's *English Life Table No. 3* for males, with interest at five per cent, to the *American Experience Table of Mortality*, at four and one-half per cent interest. The same act provided an elaborate and discriminatory table of fees for foreign companies doing business in Iowa.<sup>253</sup>

The life insurance law has been amended many times since 1872 and several important changes have been made. An examination of these changes shows that no established or well planned policy has been worked out. One group of amendments has for its purpose the protection of the assured. No less than ten acts have been passed defining the

securities in which it is lawful for insurance companies to invest their funds. A third group of measures regulates different phases of the method of carrying on business by insurance companies: agents are regulated; loans on policies are defined and authorized; policies are required to have the approval of certain State officers; and suitable medical examination is defined and required. In 1906 life insurance companies were authorized to issue health, accident, and employers' liability insurance. The articles of incorporation of every life insurance company transacting business in Iowa must be approved by the Commissioner of Insurance; misrepresentation is prohibited, and other miscellaneous regulations are provided.<sup>254</sup>

*Mutual Benefit Associations:*—Separate bodies of law have been developed for the regulation of mutual benefit associations or stipulated premium and assessment life insurance, and for fraternal beneficiary societies, orders, or associations.

During the early eighties the State was over-run with agents of so-called coöperative insurance or mutual benefit associations, and the people were defrauded in large numbers. These companies were not bona fide insurance companies, but they managed in one way or another to procure certificates of authority from the Auditor to do business in the State. In 1883 the Auditor refused to issue certificates to such companies. He recommended to the General Assembly in his report on insurance that regulatory laws be enacted to prevent the operation of fraudulent companies. The General Assembly took no action; and so the Auditor repeated his recommendations and protested against allowing such companies to continue operations, since they ruined the business of legitimate companies and defrauded the people.<sup>255</sup>

Finally, in 1866 "An Act to Regulate the Organization

and Operation of Mutual Benefit Associations'' was passed by the General Assembly. This law was made applicable to all associations organized upon the mutual assessment, co-operative, or natural premium plans for the purpose of insuring the lives of individuals, or of furnishing benefits to widows or heirs of deceased members, or of paying endowment or accident indemnity to comply with the provisions and regulations provided.

Such companies were required to have their articles of incorporation approved and recorded. Nor were they permitted to take names similar to those of other associations. The law was detailed in its regulatory provisions, following in a general manner the regular life insurance law, but it was modified in such a way as to be applicable to the associations for which it was drawn. The Auditor was authorized to make examinations at any time and to revoke the authority of such corporations to transact business in the State if they were found to be operating fraudulently.<sup>256</sup>

No change was made in the act of 1886 until 1900, when the entire law was rewritten. The new statute authorizes any number of persons, not less than five, to organize a "stock or mutual corporation for the purpose of issuing policies of insurance on the lives of individuals upon the stipulated premium plan, and to grant and purchase annuities . . . and to provide for indemnity in event of death." It describes the content of the articles of incorporation. The stipulated premium plan is defined as follows: "Any corporation . . . issuing policies of insurance promising money or other benefits to the policy holder . . . which money or benefit is derived from stipulated premiums collected in advance from its policy holders, and from interest and other accumulations, and by which the money or other benefits so realized is applied to, or accumulated solely for, the use and purpose of the corporation and the prosecution and enjoyment of its business" is a stipu-

lated premium plan company. Definite regulations were provided for the conduct of this type of insurance business.<sup>257</sup>

Some slight amendments were made to this law in 1904; and in 1906 the whole act, with the exception of the section defining stipulated premium plan companies, was repealed. It was later provided that assessment life associations should not thereafter be organized, and those in existence were authorized to reincorporate as legal reserve companies.<sup>258</sup>

*Fraternal Beneficiary Societies:*—Fraternal beneficiary societies, orders, or associations came into the State and developed with practically no regulation. Some of these orders were of real benefit to their members, but others were little less than fraudulent enterprises, organized and promoted for the benefit of a few unscrupulous men who profited thereby while the orders were new. No effort was made to regulate such associations by legislation until very recent years.

The Twenty-sixth General Assembly passed the first law defining fraternal beneficiary societies, orders, or associations. Thus an association was declared by this law to be "a corporation, society, or voluntary association, formed or organized and carried on for the sole benefit of its members and their beneficiaries, and not for profit, and having a lodge system, with ritualistic form of work and representative form of government."

Such organizations were permitted to levy assessments on their members for the purpose of paying death and disability benefits. They were exempted from the insurance statutes of the State; but they were to comply with the provisions of the act for their regulation, which prescribed the ordinary regulations relative to obtaining authority to transact business in the State. They were required under

oath to make detailed reports annually setting forth answers to a series of questions. Permits must be secured by compliance with the rules laid down in the act before business can be carried on in the State. An application fee of twenty-five dollars was charged, and other conditions were set forth.<sup>259</sup>

Such associations were later subjected to examination by the State Auditor, who was authorized to revoke or suspend their authority to do business in Iowa. They were also required to submit articles of incorporation to the Attorney General for approval before permission was given to come into the State. In 1907 a table of mortuary assessment rates was adopted and every company was required to show that its rates were no lower than those prescribed by the table. The investment of funds is regulated by law and in 1917 fraternal beneficiary societies were authorized to extend the scope of their insurance function and to provide whole family protection. Other amendments have been made from time to time, but none of them change the general plan or scope of the law as it stood after amendment by the Thirty-second General Assembly.<sup>260</sup>

#### LEGISLATION APPLICABLE TO ALL INSURANCE BUSINESS

In 1904 the first of a series of important general regulatory acts, applicable to all kinds of insurance companies, was placed upon the statute books. The laws passed by the Thirtieth General Assembly provide for the examination of insurance companies, for the licensing of insurance agents, and for regulating the consolidating or reinsurance of the risks of insurance companies.<sup>261</sup>

The examination of insurance companies is authorized and required to be made at least once every two years. Companies are required to assist in making such examinations by producing books and papers for inspection and by giving such other information as may be desired. The State

Auditor was authorized to appoint a competent actuary as an insurance examiner; and the old policy of requiring companies to pay the expense of examination was discarded and the examiner was provided with a substantial salary. In case it is shown upon examination that any company is insolvent, or in an unsound condition, or is not complying with the laws, the Auditor is authorized to revoke the certificate of such company to transact business in the State, and its affairs may be closed up. The Auditor is to use his own discretion relative to the publication of the results of any examination. Non-resident companies are to be examined only upon the order of the Executive Council and at such time as it may direct.

Agents of insurance companies, except county mutuels and fraternal beneficiary societies, are not permitted to solicit business in any manner until they have procured certificates from the Auditor of State authorizing them to act as agents. Such a license is good for only one year and must be renewed annually. The Auditor may for cause decline to issue a license, or he may revoke licenses already issued. An agent for any domestic company is charged fifty cents for a license while the representative of a non-resident company must pay two dollars.

Any insurance company organized under the laws of Iowa is permitted to consolidate with another company or re-insure its risks with another company only upon compliance with certain conditions. The plan of consolidation or re-insurance must first be submitted to the Auditor. A commission composed of the Governor, the Auditor, and the Attorney General then makes such an examination of the conditions and affairs of the company as is deemed proper. The members of the commission study the interests of the policy-holders and act according to the manner in which such interests may best be served in approving or refusing the plan submitted.



In 1906 a legislative insurance committee was created to examine into the business and practice of insurance companies. This committee was instructed to report recommendations for uniform regulation to the Thirty-second General Assembly.<sup>262</sup> The committee made an investigation of the insurance companies of the different types — old line life companies, assessment associations, fire companies, and fraternal beneficiary associations — and reported that there was a general compliance with the laws of the State by the insurance companies and that the financial condition of the companies seemed to be good, in so far as the committee was able to determine. Moreover, the committee reported that the laws regulating the insurance business in Iowa had kept pace with the rapid growth of the business, observing that it seems to have been the intent of previous legislation to protect with a firm hand and in no uncertain manner the rights of both the policy-holders and the insurance companies.<sup>263</sup>

The committee recommended (1) a rewriting of the law governing mutual fire, tornado, and hailstorm assessment insurance associations; (2) a uniform or standard policy for fire insurance companies; and (3) provisions for co-insurance. The Thirty-second General Assembly enacted all of the above recommendations into law almost as recommended. These laws were noted above under their proper headings.

The committee, moreover, presented for consideration a proposition to establish the office of State Fire Marshal for the investigation of the causes of fires, and recommended the immediate establishment of a separate insurance department. The office of State Fire Marshal was provided for by the Thirty-fourth General Assembly, and in 1913 a separate department of insurance was created. Thus all the recommendations made by the committee were enacted into law.

The Thirty-second General Assembly prohibited political contributions by corporations. It provided for proportionate representation of minority stockholders of insurance corporations. Moreover, the same General Assembly authorized the voting of stockholders of insurance companies by proxy, and required every insurance company organized upon the stock plan to have a fully paid-up capital of at least one hundred thousand dollars. Further slight amendments were made in 1911.<sup>264</sup>

The Thirty-fifth General Assembly established an "Insurance Department of Iowa" and provided for a "Commissioner of Insurance". This law is one which had been badly needed for many years. Previous to this time all the insurance business of the State had been handled through the office of the State Auditor, although it was impossible for the Auditor to give adequate attention to the enforcement of the insurance laws. Indeed, the State Auditors in almost every annual insurance report since 1880 had recommended that a separate department of insurance be created.

The new law provided for the appointment of a Commissioner of Insurance by the Governor, with the consent of the Senate. The Commissioner is to devote his entire time to the duties of his office, and his salary is fixed at three thousand dollars per year. The insurance department is provided with quarters in Des Moines, and provision is made for the furnishing of necessary supplies. Authority to appoint a deputy, two examiners, and the necessary assistants and clerks is vested in the Commissioner.

The Commissioner of Insurance is the head of the newly created Insurance Department of the State. He has general supervision and direction of all insurance business transacted in Iowa; and the administration of the insurance laws of the State is placed in his hands. All the powers and duties formerly possessed by the Auditor of State relative to insurance are now vested in the Commissioner of Insur-

ance. All records, reports, and securities of whatever nature, relating to insurance, and formerly required by law to be deposited or to be filed with the Auditor of State are now filed or deposited with the Commissioner of Insurance. Moreover, all the fees and charges of every character required by law to be paid by insurance companies are now payable to the Commissioner of Insurance.<sup>265</sup>

#### TAXATION OF INSURANCE COMPANIES<sup>266</sup>

During the Territorial period insurance companies were taxed under the general property tax, as were all other corporations. But this plan of taxation was not successful. Accordingly, it was specifically provided in the *Code of 1851* that insurance companies should be taxed one per cent for county purposes and one per cent for State purposes upon the amount of the premiums taken by them during the year previous to the listing. This provision was to apply to insurance companies of every description transacting business within the State, except mutual assessment companies, which were exempt from taxation.<sup>267</sup>

This method of taxation remained unchanged until 1868 when the first general insurance acts were passed. The new law required insurance companies to pay as taxes two per cent of the premiums on risks taken in the State during the preceding year, which sum was the total amount of taxes upon such corporations or their shares, except taxes on real estate. An amendatory act of 1872 instituted a policy of retaliation relative to foreign insurance companies. A complete system of fees was outlined, wherein non-resident companies were charged higher fees than were domestic companies. In addition to the fees required, a tax of two and one-half per cent was to be levied on the gross amount of premiums received by insurance companies within the State during the preceding year, and such tax was to be all that would be levied on insurance companies in this State

for State or local purposes. Joint stock companies organized under the laws of the State were excepted and were assessed under the general revenue law.<sup>268</sup>

No further change of importance was made in the methods of taxing insurance companies until the adoption of the *Code of 1897*. In that Code insurance companies were divided into three classes for purposes of taxation. Class one comprised all insurance companies organized outside the United States. They were taxed three and one-half per cent on the gross premiums received by them in the preceding year. Class two included all companies organized under the laws of any State other than Iowa. Such companies were required to pay into the State treasury a tax of two and one-half per cent on their gross premiums. Class three included every insurance company included in the first two classes transacting business in this State. They were required to pay a tax of one per cent on the gross premiums received by them on assessments for losses, or premiums for business done in Iowa, after deducting the amounts actually paid for losses and the amounts of premium returned. These taxes were in lieu of taxes, State and local, except taxes on real estate and special assessments. County mutual assessment societies and fraternal beneficiary associations were not included in any of the above classes.<sup>269</sup>

The constitutionality of the Code provision was questioned and soon tested in the courts. It was attacked from the standpoint of discrimination between companies because such companies were exempt from local taxation. The courts held that the discrimination was admissible because that the tax was in the nature of a license fee imposed as a condition of doing business — a fee which the State has the right to impose. On the other hand, the courts held that such companies were not exempt from local taxation.

The effects of the second decision were nullified

law enacted in 1900 which repealed the exemption clause in the *Code of 1897*, but accomplished the same purpose by providing that assets should be offset by liabilities for the purpose of assessment and taxation. In 1902 the rate of taxation on the gross amount of premiums received by foreign insurance companies was reduced from three and one-half to two and one-half per cent. Later the funds of fraternal beneficiary associations were exempted from taxation and certain reductions were allowed in the taxes of fire insurance companies.<sup>271</sup>

#### RECAPITULATION

In summarizing the insurance legislation of Iowa, the first noticeable feature is the absence of any comprehensive plan of legislation relative to this very important business. What statutory regulations there are have developed in the following order. During the Territorial period insurance companies were chartered by special incorporation acts. The Constitution of 1846 prohibited the enactment of special acts of incorporation, and so the General Assembly passed a general incorporation law at its first session following the adoption of the Constitution. A period of ten years elapsed during which insurance companies were permitted to incorporate under the general corporation law and to pursue their business without outside regulation. An insurance law, applicable to fire insurance companies only and incomplete in many essential features, was passed in 1857; and the provisions of this act were soon extended to life insurance companies by an amendment.

The only comprehensive insurance laws thus far enacted in this State were placed upon the statute books in 1868. The two acts then passed — one applicable to life insurance companies and the other dealing with insurance companies other than life — have been amended, added to, and subtracted from upon many occasions, but they have never

been thoroughly and carefully revised. They seemed to be very comprehensive at the time of their enactment; but it should be remembered that although a tremendous development was taking place in the insurance business at that time there was almost universal ignorance as to the basic principles of the business.

The policy instituted in 1868 of dividing the insurance laws into two groups has been adhered to ever since; and so two almost separate bodies of law have developed. The insurance business has grown rapidly and the laws have been made more inclusive. The fire insurance law has been developed and stretched until it is applicable to nine distinct classes of insurance risks. Distinct types of life insurance have also developed, making regulatory legislation imperative.

Beginning with 1904 a new body of insurance law has developed which is applicable to all insurance companies. This law is broadly regulatory. It insures an increased amount of publicity and provides for regular and thorough examinations into the financial conditions of insurance companies. A distinct advance in insurance legislation was made in 1913. After many years of agitation a department of insurance was established. The insurance business of the State was removed from the over-crowded Auditor's office and placed in a separate department under a special officer who devotes his entire time and energy to the administration of the insurance laws.

The legislative action relative to insurance has been noted briefly. Have the laws been satisfactory? Without attempting to answer this question, a few points of interest may be noted in this connection. Early in the history of insurance in Iowa foreign companies were discriminated against in the matter of both fees and taxes; and they are still discriminated against. Beginning about 1880 fraudulent coöperative life and beneficiary associations over-ran

the State. They defrauded the people and decreased the business of legitimate companies; but no legislative restraint was attempted until 1886. For more than thirty years State Auditors recommended the creation of a separate department of insurance. They made this recommendation because they realized their inability to adequately handle the work in addition to their other duties. A separate insurance department was established in 1913.

There are other features of the Iowa insurance legislation which have been very satisfactory. From the time the first insurance law was passed there has been publicity: companies make complete reports to the State and these reports are published. Insurance companies have for many years been subject to examination by a State official. The form of policies and the articles of incorporation are subject to the approval of a State official; and the investment of funds has secured much legislative attention. Life companies are required to keep securities on deposit with the Commissioner of Insurance to guarantee protection to policy-holders. A special method of taxation has been applied to insurance companies and has worked successfully.

Recent developments are full of promise. Uniform policies are required of all fire insurance companies. The business itself has become established upon tried principles. The establishment of an insurance department, separate from the Auditor's office, with the Commissioner of Insurance at its head, should bring about a more careful administration of the laws. Moreover, the Commissioner of Insurance, since he devotes all his time to the insurance problem, should be able to make recommendations for needed changes in the insurance laws in such a manner as to secure the careful consideration of the General Assembly. In general it may be said that under the Iowa laws policy-holders have been adequately protected and the insurance business has thrived in the State.

## VIII

### BANKING

The charter of the second Bank of the United States expired in 1836 and was not renewed. The steadying influence exerted by this bank having been removed, the number of State banks multiplied rapidly and an enormous increase in the issue of State bank-notes followed. There sprang up many State banks which were operated under loosely drawn statutes that were laxly enforced; while in many cases they were unhampered by legal restrictions of any kind. The result was an era of speculation which culminated in the panic of 1837.

The panic and the demoralized condition of the currency throughout the country hastened banking legislation. Some of the eastern and southern States enacted banking laws based upon conservative and sound principles. The State of Indiana in the West also established a sound system of banking. The western States, however, felt the immediate need for a more plentiful supply of money. They were eager for rapid development, but they did not understand the principles of sound banking. The result was that many of them enacted loosely constructed and poorly thought out laws which permitted, if they did not encourage, a flood of worthless bank-notes.

#### THE MINERS' BANK OF DUBUQUE

The first settlements in the Iowa country were being made at the time when the charter of the second United States Bank expired. At Dubuque the lead mining industry made that city a commercial center early in the development



of the Territory; indeed, it had become a sort of clearing house for the surrounding country. Although money was scarce banks of issue were plentiful in the neighboring Territories and States. Thus it is not surprising that certain citizens of Dubuque made application to the Legislative Assembly of the Territory of Wisconsin for a bank charter.

On November 30, 1836, an act was approved by the legislature of the Territory incorporating the Miners' Bank of Dubuque. Congress amended and confirmed the charter on March 3, 1837. Moreover, this institution was the first and only authorized bank in what is now the State of Iowa until 1858.

The charter of the Miners' Bank of Dubuque provided for a capital of two hundred thousand dollars in shares of one hundred dollars each. Commissioners named in the charter were authorized to open books for the subscription of the capital stock; and they were to act as directors until a regular election of officers could be held. One-tenth of the capital stock was to be paid in at the time of subscription and the balance in payments of not more than ten dollars per share as called for by the directors. No notes were to be issued until forty thousand dollars of the capital stock was paid up, and notes in denominations of less than five dollars were not permitted. The legislature, moreover, reserved the right to prohibit notes of less than ten dollars in four years, and notes of less than twenty dollars in ten years. But no provision was made concerning the kind of money that was to constitute the capital stock. This omission proved to be a fatal weakness in the stability of the bank.

The management of the bank was vested in a board of seven directors who were to be resident stockholders. They were to be elected by a plurality of votes cast in person or by proxy. Each stockholder was to have one vote per share of stock owned up to ten, and one vote for every ten shares

above that number. The directors were given power to increase the capital stock up to five hundred thousand dollars upon obtaining the consent of Congress. For the management of the corporation they could make the necessary by-laws, not in conflict with the Constitution and laws of the United States and the laws of the Territory. They were authorized to declare semi-annual dividends; and the by-laws were to determine the number of directors necessary to constitute a board of discount. The bank was permitted to charge seven per cent interest; and its charter was limited in duration to twenty years.

The legislature reserved the right to require a sworn statement from the president and cashier as to the condition of the bank at any time. Such statements were to show the following information: amount of deposits, profits on hand, bills in circulation, debts due from directors and stockholders, debts due from other persons or corporations, amount of specie in the bank, amount of bills of other banks, amount of deposits in other banks, amount of real estate and other property, and the amount of capital actually paid in.

The total amount of indebtedness of all kinds, over and above the amount of specie then deposited was limited at any one time to three times the amount of capital stock actually paid in. In case the indebtedness was increased beyond this limit, the directors under whose administration the excess debt had been created were to be liable in their separate and private capacities in the contingency that the bank should not be able to pay its liabilities.

The bank was limited in its power to hold real estate to such property as might be necessary for the convenient transaction of its business and that taken in the satisfaction of debts owing to it. It was also denied the privilege of purchasing or selling merchandise, except when such was pledged for the security of debts. The assignment or transfer of stock was not considered valid until it had been reg-

istered on the stock-books of the corporation. Nor could stock be assigned or transferred until all notes, debts, dues or endorsements of whatever nature to the corporation were first paid. Stock was liable to execution for debt in the same manner as other personal property was liable under the laws of the Territory.<sup>272</sup>

When the matter was brought before Congress the following limitations, which amounted to modifications of the charter, were prescribed: the bank was forbidden to issue bills or notes for circulation until one-half of its capital stock was paid up; the directors were permitted to call for forty per cent of the unpaid capital at one time, instead of ten per cent, if they thought best; the increase of capital was prohibited unless sanctioned by Congress; aggregate debt, over and above actual deposits, was limited to twice the paid-up capital; and the charter was to be forfeited if the corporation was not organized and ready for business by January 1, 1838.<sup>273</sup>

The commissioners accepted the charter as amended by Congress. Subscription books were opened and the bank was ready for the transaction of business on October 31, 1837. The panic had begun when the bank opened its doors, and its existence proved to be precarious from the first. There were rumors of the instability of the bank almost as soon as it began the transaction of business. It was examined by two legislative committees within a year and some irregularities were discovered. The committees, however, reported the bank to be solvent and recommended that it be allowed to continue in business.<sup>274</sup>

The Iowa country was organized as a separate Territory in 1838; and early in the first session of the Legislative Assembly of the new Territory a committee was appointed to examine into the condition of the Miners' Bank of Dubuque. This committee also reported the bank to be solvent.<sup>275</sup>

The bank, however, never did a large business, owing

partly to the panic of 1837 and partly to the hard times that followed. Its bills were not put into circulation to any great extent and its whole existence was precarious. The reports of the legislative investigating committees indicate that the bank was not well managed during the early part of its career and that it had been fraudulently capitalized. For instance, the charter required that one hundred thousand dollars of capital be actually paid up before any business was transacted; and the investigations showed that the stock had been paid for largely by stockholders' notes. The bank struggled along for about seven years and finally discontinued business, after its charter had been repealed, with but a small loss to its billholders. It at first maintained that the act repealing its charter was unconstitutional and attempted to continue business. The validity of the repealing act was upheld by the courts, however, and the affairs of the bank were closed in 1845.<sup>276</sup>

#### BANKING LEGISLATION BEFORE 1858

With the exception of the Miners' Bank of Dubuque there were no banks authorized during the Territorial period. Indeed, one of the first measures passed by the Legislative Assembly of the Territory was "An Act to restrain unincorporated Banking Associations". This act provided that any person, unauthorized by express word of law, who should become a member of any company for the purpose of issuing notes or bank bills, should be subject to a fine of one thousand dollars.<sup>277</sup>

The subject of banking received much attention in the constitutional conventions of 1844 and 1846. In both these conventions the majority of the delegates were opposed to banking in any form in which they understood it; and so the Constitution of Iowa which was finally adopted in 1846 contained the following provisions:<sup>278</sup>

1. No corporate body shall hereafter be created, renewed or ex-

tended, with the privilege of making, issuing, or putting in circulation, any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money. The general assembly of this state shall prohibit, by law, any person or persons, association, company or corporation, from exercising the privileges of banking, or creating paper to circulate as money.

2. Corporations shall not be created in this state by special laws, except for political or municipal purposes; but the general assembly shall provide by general laws, for the organization of all other corporations, except corporations with banking privileges, the creation of which is prohibited. The stockholders shall be subject to such liabilities and restrictions as shall be provided by law. The state shall not directly or indirectly become a stockholder in any corporation.

The *Code of 1851* contained similar stringent statutory prohibitions. Any person who became a member of or subscribed to any company formed for the purpose of putting any kind of paper in circulation as money was liable to a year's imprisonment and a heavy fine. Corporations were not to employ any part of their funds or effects for the purpose of introducing any kind of notes or evidences of debts to be put in circulation. And "no person, association, or corporation shall issue any bills, drafts, or other evidences of debt to be loaned or put in circulation as money or to pass or be used as a currency or circulating medium; and every person, association, or corporation, and every member thereof who violates the provisions of this section shall be punished by fine not exceeding one thousand dollars."<sup>279</sup>

It appears from these provisions that the framers of the Constitution of 1846 and the men responsible for the *Code of 1851* were opposed to banks of issue, and that they had such banks in mind rather than ordinary banks of discount and deposit. At all events the development of the country and the increase in population made necessary the conduct of a frontier banking business. Money was scarce and the fron-

tier banker served the settlers by entering land on time. The rapid development of the country increased the demand for money as a medium of exchange; but specie was not available and there was no provision in the Constitution or in the statutes by which the banking needs of the people of the State could be met. Several of the surrounding States had established systems of practically free banking. Consequently Iowa became a sort of dumping ground for the fluctuating currency from the other States. Under such conditions the people of Iowa suffered without recourse from worthless bank-notes.<sup>280</sup>

Enterprising business men within the State concluded that if such currency must be used they might as well profit by it. At this time the newly organized Territory of Nebraska was willing to grant charters; accordingly Iowa men incorporated several concerns in Nebraska for the purpose of issuing currency to be used by them in Iowa. Some of the companies did a thriving business and served the people of the State more justly and conveniently than they had been served by outside organizations. Not one of the concerns so organized, however, was able to endure the panic of 1857.<sup>281</sup>

The natural development of the State rendered banking facilities more and more a necessity. Furthermore, the hard times and the worthless paper currency helped to open the eyes of legislators and public men to this need. Gradually the people of the State came to see that some stable system of banking was essential to the continuous development of the business interests of the State, and a vote of the electors in 1856 favored a convention to revise the Constitution. The convention met in January, 1857; and one of the most important questions which came before it was that of banking. The work of the convention was completed on March 5, 1857, and the new Constitution was submitted to the electors of the State at the August election

of the same year. It was approved and went into effect by proclamation of the Governor on September 3, 1857. This instrument provided, among other things, that the General Assembly might create corporations with banking powers. The sections relating to banking are as follows:<sup>282</sup>

SEC. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

SEC. 5. No act of the General Assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto shall take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

SEC. 6. Subject to the provisions of the foregoing section, the General Assembly may also provide for the establishment of a State Bank with branches.

SEC. 7. If a State Bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills, and other issues intended for circulation as money.

SEC. 8. If a general Banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills, or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in United States stocks, or in interest paying stocks of states in good credit and standing, to be rated at ten per cent. below their average value in the City of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of said stocks, to the amount of ten per cent. on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks; and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom.

SEC. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held for all of its liabilities, accruing while he or she remains such stockholder.

SEC. 10. In case of the insolvency of any banking institution, the bill-holders shall have a preference over its other creditors.

SEC. 11. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

SEC. 12. Subject to the provisions of this article, the General Assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the General Assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

These sections indicate the change of sentiment that had taken place since the first Constitution was adopted in 1846.

The year 1857 closed with great financial and commercial depression throughout the country. Most of the western banks suspended specie payment. Industry was almost at a standstill; and the Nebraska banks, whose notes were in general circulation in Iowa, failed with great loss to thousands of Iowa citizens. When the Seventh General Assembly convened at Des Moines on January 11, 1858, financial conditions in the State were wholly demoralized.

The new constitutional provisions having made it possible for the General Assembly to take action in the matter of banking, a majority of the members favored the establishment of a banking system. The retiring Governor, James W. Grimes, in his final message, which was read to the General Assembly on January 12, 1858, made the following observations:<sup>283</sup>

The constitution authorizes the General Assembly to establish, with the subsequent approval of the people;

1. A State Bank with branches, to be founded upon an actual



specie basis, and the branches to be mutually liable for each other's issues.

2. A general free banking law with the restrictions and limitations imposed by Art. 8, Sec. 8 of the Constitution.

In acting upon this subject, it will doubtless be ever borne in mind by the General Assembly, that banks are to be established to secure the *public welfare*, and not to promote the purposes of stockholders and capitalists; and that it is far better that banks should realize small profits, than that the public should be liable to injury by their suspension or failure.

Governor Lowe in his inaugural address, which was delivered a few days later, recommended the enactment of a carefully regulated State banking system which would protect bill-holders and be inviting to capitalists.<sup>284</sup>

Two laws providing for banks were enacted. One was entitled "An Act authorizing General Banking in the State of Iowa",<sup>285</sup> and the other "An Act to Incorporate the State Bank of Iowa".<sup>286</sup> The latter act proved to be the more popular of the two, but both having been submitted to a vote of the electors of the State were adopted by them before the close of the year.<sup>287</sup> Measures were soon taken to put the State Bank into operation, but it does not appear that any banks were ever organized under the general banking law.

#### THE STATE BANK OF IOWA

The act to incorporate the State Bank of Iowa was drawn with great care. It defined in minute detail the duties, powers, and responsibilities of the bank and its branches. "The system adopted followed closely the provisions of the statutes under which the State Banks of both Ohio and Indiana were organized, retaining the leading features of both systems, as to the relations which the branches bore to each other and to the parent bank, the safeguards enacted for the security of the public in handling their circulating notes, and other prominent features which distinguished the State

Bank system from that of other states, with independent charters and local security for circulating notes.'''<sup>288</sup>

The statute created a board of ten commissioners, named from among the leading citizens of the State, to supervise the organization of the bank and its branches. It provided that whenever the commissioners had ascertained, by careful examination, that five or more branches had been formed, and that their stockholders, directors, and officers were men of responsibility and integrity, the facts were to be certified to the Governor. The Governor was then to announce that the three directors named for the State in the statute, with one director named by each branch, constituted the State Bank of Iowa with authority to exercise all the powers and duties conferred upon it by the Constitution and laws of the State. This completed the legal duties of the board of commissioners and the affairs of the bank were then to be placed in the hands of the Board of Directors consisting of three members named by the General Assembly and one member selected by each of the branches.<sup>289</sup>

The State Bank proper was not a bank of issue or deposit. It transacted no business except with the branches. It was to keep an office at Iowa City, where the books and accounts of every description, which were to be open to inspection by the General Assembly, were to be kept. The parent bank was to have general supervision over the several branches; it was to furnish them with notes for circulation, examine into their affairs, and publish monthly statements of the condition of the several branches.

The branches were required to deposit with the State Bank certain designated stocks as security for the notes issued to them for circulation. Such deposits were to amount to twelve and one-half per cent of the notes received and were to be kept as a "Safety Fund" for the redemption of the notes of circulation of any branch failing to redeem its notes. The branches were limited in their circulation to

the following: on the first hundred thousand dollars or any lesser amount of capital, twice the amount of such capital; on the second hundred thousand dollars, or part of that amount, one and three-fourths of the amount of capital over one hundred thousand dollars; and on the third hundred thousand dollars or part of that amount, one and one-half times the amount of capital above two hundred thousand dollars.

Ten per cent of the notes issued could be for one dollar each, and two and three dollar notes were authorized. Not more than twenty-five per cent could be in notes of all denominations under five dollars, nor more than fifty per cent in notes of all denominations under ten dollars.

Not more than thirty branches could be organized. The minimum capital for a branch was \$50,000, and the maximum was \$300,000. A branch could not be established in a town of less than five hundred inhabitants; nor could more than one branch be located in the same town or city.

Branches refusing to redeem their notes in specie were to be declared insolvent and taken in charge by the State Bank, and the solvent branches were required to make up the losses of the insolvent branch. Provision was made for the appointment of receivers for insolvent branches, who were to convert the assets of the insolvent bank into money and apply the money in the following manner: first, reimburse all the moneys received from the other branches; second, reimburse the safety fund; third, pay other liabilities of the insolvent branch; and fourth, divide the residue among the stockholders of the insolvent branch.

Five or more persons could associate for the purpose of forming a branch bank. They were required to make application to the Board of Directors of the State Bank certifying the name and location; the amount of capital stock and the number of shares; the name, address, and number of shares held by each stockholder; and the time when the

company was formed. This certificate was required to be recorded in the county in which the branch was located and a copy filed with the Secretary of State. Upon being admitted as a branch the association agreed to comply with all the restrictions of the statute.

At least fifty per cent of the capital stock of each branch had to be paid up in gold and silver coin, and the remainder was required in installments of at least ten per cent of the whole amount every four months until all the capital stock was paid up. These installments were also to be paid in specie. Each share of stock carried with it one vote in the management of the business, and voting by proxy was permitted.

Branch banks were to be managed by a board of directors of not less than five nor more than nine members, who were required to be citizens of the United States and residents of the State. The amount of stock which could be held by stockholders and directors was limited. Charters of branch banks were to be of twenty years duration, and the branches had general corporate powers.

Each of the branches was authorized to transact a general banking business. They could hold and convey such real estate as was necessary for the convenient transaction of their business, but no more. Their circulation was restricted to their own notes, they were forbidden to put the doubtful notes of other banks into circulation, and they were required to accept each other's notes at par. Each branch was required to maintain a specie reserve equal in amount to one-fourth of its outstanding circulation and an additional and separate reserve of twenty-five per cent of its current deposits. Interest on current deposits was prohibited.

The amount of indebtedness which a branch bank could incur was limited. Notes could not be exchanged for capital stock, nor could capital stock be withdrawn. Dividends

could be declared semi-annually, but only from net profits. Detailed statements were required from each branch every month, copies of which were to be transmitted to the State Bank and to the State Auditor. Such statements were also to be published in the local papers. Interest and discount were limited to ten per cent and usury was forbidden. It was not permissible for any branch to allow one firm or person to become indebted to it in a greater amount than one-fourth of its authorized circulation.

The violation of any of the provisions of the statute by a branch served to forfeit its charter, and any director participating in or assenting to such violation was held liable in his personal and individual capacity for all damages which the branch, stockholders, or any one else sustained because of the violation. Provision was made for the punishment of dishonest officials; and the liability of stockholders extended to a sum double the amount of stock held by them. Detailed directions were prescribed for the election of officers.<sup>290</sup>

The board of commissioners held its first meeting at Iowa City on July 30, 1858, when it organized and adjourned to meet on September 15th to receive and act upon applications for branches. At the second meeting the applications were referred to committees for personal examination and a few weeks later the commissioners certified to the Governor that in the following named cities branches had been legally organized and had complied with the prescribed conditions of the law and were entitled to commence the business of banking: Davenport, Des Moines, Dubuque, Iowa City, Keokuk, Mount Pleasant, Muscatine, and Oska-loosa. New branches were later organized at Lyons City, Burlington, Washington, Fort Madison, McGregor, Council Bluffs, and Maquoketa — making a total of fifteen.<sup>291</sup>

The board of directors met for the first time at Iowa City on October 27, 1858. Permanent officers of the board

were chosen on the following day and a carefully framed set of by-laws was adopted which defined the powers and duties of the officers and of the branch banks.<sup>292</sup>

In 1862 the General Assembly authorized the acceptance of the notes of the State Bank of Iowa for all debts, interest payments, and taxes. Two years later the State Bank was given a monopoly of the issue of circulating notes in the State.<sup>293</sup>

The State Bank conducted its business on safe and conservative lines during the whole period of its existence. There was a general suspension of specie payment throughout the country soon after the opening of the Civil War and gold commanded a premium. The notes of the State Bank, of which there were over a million dollars in circulation, were payable in coin, and the suspension of specie payment was prohibited by the State Constitution. The immediate return of all their notes for redemption would have seriously injured the banks and the public. In this emergency the board of directors published a consolidated statement of the branches showing their strength and on February 12, 1862, passed a resolution requiring all branches to receive the newly issued United States greenbacks in payment for all debts and permitting the branches to redeem their notes in such greenbacks, as soon as they should have become legal tender, as well as in specie. The branches were ordered to maintain their reserves against circulation and urged to redeem their notes in specie when they were in the hands of residents of Iowa.<sup>294</sup>

The national banking system was established, under the law of February 25, 1863, and put into operation in 1864-1865. Among its amendatory provisions was one which levied a heavy tax upon the circulation of State banks, the object of which was to drive out such circulation in order to create a demand for that of the national banks. The State Bank of Iowa took decided action in complying with

the new system and in withdrawing its own circulation. The first steps toward closing up the affairs of the bank were taken at the directors' meeting in February, 1865. Stringent measures were adopted to insure the complete settlement by the branches of all their obligations and for the redemption of their notes which were rapidly withdrawn. Moreover, there was no loss and little inconvenience to the public caused by the withdrawal. Formal action in the matter of the complete closing up of the affairs of the bank, was taken by the directors at the August meeting in 1865; and the last meeting of the board of directors was held, informally, at Davenport on November 22, 1865.<sup>295</sup>

The State Bank of Iowa was organized and began business under great difficulties. The promoters of the worthless currency which was in circulation in the State at that time offered all the opposition in their power. The bank and its branches, however, secured the confidence of the communities in which they were located. Its circulation was a decided improvement over that which was current in the State, and its business was conducted on a careful and conservative basis. The system was sound, and the branches did a fairly successful business even during the war. They assumed the burden of aiding the State government in protecting its credit and adjusted themselves to conditions in a very successful manner. It is true that some of the branches did adopt unwise practices, but the State Bank took immediate action and no loss resulted to the public or to the stockholders. It would be of interest to treat of this institution at greater length but such treatment would be out of place in this connection. The bank left behind it, as a part of its history, "a reputation for safety, prudence, reliability, and other business virtues, not excelled by any other institution of its kind in the whole Union."<sup>296</sup>

Most of the branches of the State Bank of Iowa were at

once merged into national banks quietly and easily, with little friction. On April 7, 1870, an act was approved which repealed the law under which the State Bank of Iowa was established and directed the officers to wind up the business, which had already been done.<sup>297</sup>

#### THE GENERAL BANKING LAW OF 1858

In addition to the law under which the State Bank of Iowa was organized the Seventh General Assembly made provision for a system of general banking under a statute which provided regulations in accordance with which banks of discount, deposit, and circulation could be established.<sup>298</sup> It provided that any number of persons should be allowed to associate together and incorporate with banking privileges, and set fifty thousand dollars as the minimum of capital stock which was required to be paid up in cash before any business could be transacted. Banking associations organized under this law were to have ordinary corporate powers, with a duration of not more than twenty years. They could not be established in towns having a population of less than five hundred. Such banks were authorized to do a general banking business, but were required to limit their activities, for the most part, to short time loans on personal security. The rate of interest was limited to ten per cent. Shares were transferable and shareholders were subject to double liability.

In order to secure circulation notes a bank was required to deposit securities of a designated class with the Auditor of State in an amount greater by ten per cent than the amount of notes issued for circulation. Stringent regulations were prescribed in all the details relating to circulation, and suspension of specie payment was cause for the sale of the deposited securities for the satisfaction of the liabilities of the association. Notes were required to be payable at the bank, and the distribution of foreign bank notes by a bank was prohibited.



Each bank was required to maintain a specie reserve sufficient to redeem its bills or notes on demand. A specie reserve of one-fourth of the amount of deposits was also required. The payment of interest on deposits was forbidden. The power to purchase and hold real estate was limited to the amount necessary and convenient for the accommodation of banking buildings and that which had to be taken to secure debts.

A certificate specifying the name, the place of business, the amount of capital stock, the names and addresses of stockholders and the number of shares held by each, and the date of establishment and termination of the corporation had to be submitted to the Auditor at the time of making application for circulation notes. Semi-annual statements giving in detail the holdings of the capital stock were required to be posted in the bank and filed with the recorder of deeds in the county in which the bank was located. Severe penalties were prescribed for the violation of any portions of the law.

Every bank incorporated under the provisions of the law was required to transmit quarterly statements to the Auditor of State. These statements were to specify: the amount of capital stock, real estate, bills receivable, bills payable, circulation and liability of the stockholders, suspended debts, and deposits. Any bank neglecting or refusing to comply with this provision forfeited its charter and was closed up.

Three bank commissioners were elected by the General Assembly to have general supervision of the banks organized under the statute. They were to make semi-annual examinations of the banks and were given power to examine books and papers and subpoena witnesses. The results of such examinations were to be made public.

The statute is very long and the content has been given very briefly. It was clearly the intent of the legislature to

insure a conservative banking system. Indeed, the law was so strict that no banks appear to have been established under its provisions. In his biennial message delivered on January 10, 1860, Governor Lowe remarked that there was some agitation for a more lenient law, but he went on to say that "It is the want of these stringent provisions in the Free Banking systems of Illinois and Wisconsin that have flooded those States and Iowa with their irredeemable paper. It is infinitely better for the people of this State to have no free or State banks, if their paper cannot be redeemed on demand in specie."<sup>299</sup>

The members of the Eighth General Assembly felt, however, that there should be a more liberal law. The argument was that the general banking law was too rigid and was keeping capital out of the State. Accordingly, an amendment to the law was passed by both houses of the legislature which reduced the required minimum capitalization to twenty-five thousand dollars; permitted the establishment of banks in towns of less than five hundred inhabitants; and abolished the office of bank commissioners. This amendment appeared to be dangerous and was vetoed by Governor Kirkwood, who, as a State Senator, had helped to enact the rigid law. It then failed of passage over the Governor's veto.<sup>300</sup> It appear that no banks were established under the general banking law and it was repealed on March 4, 1870.<sup>301</sup>

#### STATE BANKS

The national banking act of 1863, by an amendment which went into effect on August 1, 1866, taxed the circulation of State banks out of existence: the branches of the State Bank of Iowa either reorganized as national banks or discontinued business. From this date until 1873 complete data relative to banks in Iowa is not available; indeed, information of any sort is scarce. It is known that several

banks were organized under the general incorporation laws of the State, but it has not been possible to determine the exact number. The laws at that time permitted corporations for pecuniary profit to file their articles with the county recorders, but did not require notice to be given to any State official.

In 1870 an amendment required all such corporations to file their articles with the Secretary of State within three months. It appears that this requirement was not fully complied with, since several associations had difficulty in securing the appointment of receivers by State authorities because the State Auditor refused to recognize any organization as a bank that had not complied with the law. The complete records were scattered and they have not yet been assembled. The records in the office of the Secretary of State indicate that five banks were incorporated in 1870, nine in 1871, ten in 1872, and twenty in 1873 — a total of forty-eight before 1874. The State Auditor reports only twenty-three in 1873, but in 1875 he reports nineteen savings banks and twenty-three State banks.<sup>302</sup>

The first law for the regulation of banks in the State appears in the *Code of 1873*, by the provisions of which banks, both savings and State, were required to make quarterly statements to the State Auditor specifying the amount of capital stock actually paid in; the amount of debts of every kind, other than those owing to regular depositors; the total amount due depositors; the amount of deposits with other solvent banks or bankers; the amount of gold and silver coin and bullion on hand; the amount of bills of solvent specie-paying banks on hand; the amount of discounts and other evidences of debt owned by the bank and designated as good, doubtful, and in judgment; the value of all real or personal property held by the bank; the amount of undivided profits, if any; and the total amount of all liabilities to the bank from the directors.

The Auditor was authorized to require additional reports as often as four times a year and to make personal examination of any bank if at any time the public interest seemed to warrant it. In case any bank was found to be unsafe, provision was made for the appointment of a receiver to close up the affairs of the institution. Depositors were in such cases to be given preference in the payment of creditors. Failure on the part of any bank to make the required report subjected the officers whose duty it was to make such reports to fine or imprisonment or both. "These provisions were not to be enforced against existing incorporated banks in case such banks filed satisfactory sworn statements with the Auditor prior to a designated date.

The law required banking associations to have a paid-up capital of fifty thousand dollars — except that banks might be organized in towns or cities of less than three thousand population with a paid-up capital of not less than twenty-five thousand dollars.<sup>303</sup>

These provisions of the *Code of 1873* still remain the basis for the regulation of State banks in Iowa. In 1880 banking associations of every character were prohibited from receiving deposits when insolvent. Severe penalties were prescribed for violation of the law, and stockholders in banking associations were declared to be subject to double liability.<sup>304</sup> An act passed by the Twenty-first General Assembly in 1886 defines State banks in the following terms: "all associations hereafter organized under the general incorporation laws of this state, for transacting a banking business, buying, or selling exchange, receiving deposits, discounting notes etc.; other than savings banks, shall have the word 'state' incorporated in and made a part of the name of such corporation, and no such corporation shall be authorized to transact business, unless the provisions of this act have been complied with." All incorporated banking associations, except savings banks, in existence previous

to the enactment of this law were required to amend their articles of incorporation so as to comply with the change. Unincorporated banking concerns were forbidden to use the word "State" in their names.<sup>305</sup>

Provision was made in 1890 for the appointment, by the Auditor of State, of one or more State Bank Examiners. The banks examined were required to pay the expense of making the examinations, in addition to paying examining fees, graduated in amount from fifteen to thirty dollars depending upon the amount of capital stock. The Twenty-fifth General Assembly provided that in case the capital of any incorporated banking association became impaired assessments might be levied upon the stockholders in any sum necessary to make the capital stock good. Directors failing or neglecting to require such an assessment when needed became personally liable. Moreover, the officers of banking associations were required to give the same security as other persons when borrowing the funds of a bank. The liabilities owing to the bank from any one person or firm were limited to twenty per cent of the paid-up capital of the bank. The directors of each bank were also required to appoint an examining committee, from their own number, to examine the conditions of the bank at least every three months and to report the results to the board of directors.<sup>306</sup>

The *Code of 1897* added a few important provisions to the law regulating State banks. It provided that no corporation might engage in the business of banking unless it became subject to and organized under the banking laws of the State. It required every State bank to file its articles of incorporation with the county recorder in the county in which the principal place of business was located and with the Secretary of State. Such articles were required to contain the following information: the object and name of the corporation; the principal place of business; the time of commencement and termination of the corporation, which

is limited to twenty years; the amount of capital stock authorized and the conditions of payment; the officers who are to conduct the business and when elected; the highest amount of indebtedness to which the corporation may subject itself; whether private property shall be liable for corporate debts in addition to the liability fixed by law; the name and address of each officer; any other provisions which may be adopted by the corporations, which must be in accordance with law.

Under the provisions of the *Code of 1897* the capital stock of State banks must be divided into shares of one hundred dollars each and issued only upon the full payment of their value. The business must be managed by a board of not less than five directors, all of whom must be stockholders. The number of shares required to be owned by the directors depended upon the capitalization of the bank. Banks were required to maintain a reserve of not less than ten per cent of their total deposits if located in a town or city having a population of less than three thousand; in larger cities and towns a reserve of not less than fifteen per cent of their total deposits was required, three-fourths of which could be deposited, subject to call, with other national or State banks. In the *Code of 1897*, moreover, the bank laws of the State are collected and arranged in order.<sup>307</sup>

Many changes have been made in the banking laws since 1897. The limit of liabilities was raised in 1902, when banks were permitted to loan an amount not to exceed one-half of their capital stock to any one person or company on notes or bonds secured by mortgages or deeds of trust upon unencumbered farm land in Iowa, worth at least twice the amount loaned thereon.<sup>308</sup>

The Thirtieth General Assembly in 1904 empowered the State Auditor to appoint four Bank Examiners who were to receive regular salaries; and banks were required to pay annual fees to the Auditor instead of paying examining

fees to the Bank Examiners. The law further provided that no Bank Examiner should be assigned to examine a bank in any county in which he was interested in banking. Definite dates for the making of two annual examinations were fixed in 1906; and the provisions of the examining law were made applicable to loan and trust companies. In 1909 and again in 1915 the number of Bank Examiners was increased and the annual fees raised. The Auditor could formerly and the Superintendent of Banking may now appoint not less than six nor more than eight examiners and new appointees must have had not less than three years experience in the business of banking or as bank examiners in order to qualify for the office. Fees are required from loan and trust companies the same as from banks. They are graduated, in proportion to the amount of capital, from fifteen dollars for concerns having a capital of twenty-five thousand dollars to one hundred and fifty dollars for concerns having a capital in excess of two hundred thousand dollars. The State Auditor was authorized in 1911 to require an examination to be made at any time, and calls for statements may be made as often as five times a year. The statements must show the condition of the bank on designated past days and be published in the regular issue of some paper in the city, town, or county in which the bank is located.<sup>309</sup>

The Thirty-first General Assembly prescribed penalties for the misuse of funds by the officers or employees of banks. At the same time provision was made for the extension of bank charters. The purposes for which banks might contract indebtedness were re-defined in 1907, and a change was made in the manner of regulating loans to officers and directors. Such loans may now be made only by a resolution of the board of directors in the absence of the applicant and upon the same security that is required of other persons. Provision was made in 1909 for the dissolution of

State banks by an affirmative vote of the share-holders holding three-fourths of the capital stock, and banks were declared to be not liable to a depositor for the payment of a forged or raised check unless notified by the depositor within six months after the return of the voucher. In 1913 both State and savings banks were authorized to deposit securities with the Treasurer of the United States to secure postal savings funds deposited with them. Enlarged trust powers were conferred in 1913 and 1915, and banks were authorized to become members of the Federal Reserve System upon an affirmative vote of the shareholders holding a majority of the capital stock.<sup>310</sup>

#### SAVINGS BANKS

In 1874 the Fifteenth General Assembly made provision for the savings bank system of Iowa. Before this time associations transacting a savings bank business were incorporated under the general incorporation laws, which had no special reference to savings banks, and under such conditions they were practically unrestricted.

This law of 1874 was entitled "An Act to Provide for the Organization and Management of Savings Banks". It provided that a savings bank might be organized by not less than five persons, with a paid-up capital of \$10,000 in cities or towns of ten thousand or less, or with a paid-up capital of \$50,000 in cities of more than ten thousand. It prohibited the organization of savings banks under the general incorporation laws and required existing savings banks to reorganize under the new provisions. Certified articles were required to be filed in the county where the association was located and with the Secretary of State. The content of such articles was prescribed and was similar to that which was later required of State banks. Savings bank charters were to endure for a period of fifty years and the associations were given ordinary corporate powers.



The aggregate amount of deposits which any savings bank might receive was limited to ten times the amount of its paid-up capital. The capital was to serve as a guarantee fund for the security of deposits and was to be invested in safe and available securities. Provision was made for the repayment of deposits, but it was made lawful for an association to require sixty days notice of the withdrawal of deposits.

Savings banks were to invest their funds in the following securities: stocks, bonds, or interest-bearing notes of the United States; stocks, bonds, or evidences of debt bearing interest of this State; municipal or school bonds, not exceeding twenty-five per cent of the assets of any bank; and mortgages or debts on unencumbered real estate in Iowa, worth at least twice the amount loaned. Such banks were permitted to discount, purchase, sell, and make loans upon commercial paper, notes, bills of exchange, drafts, or other personal or public security; but they were not to purchase, hold, or make loans upon the shares of their own capital stock.

The law allowed a bank to own enough real estate for a location for its business and also such property as it might acquire by foreclosure of mortgage, providing such property be sold within ten years. The rate of interest to be paid was left to the discretion of the trustees, and the profits, after the payment of interest and expenses, went to the stockholders. Double liability of shareholders was prescribed, and the directors of the bank, as such, were to receive no compensation. Loans to officers and directors were required to be secured in the same manner as loans to any other parties and could be made only by a vote of the board in the absence of the applicant. Loans to any individual or firm were limited to twenty per cent of the capital stock.

The use of the term "savings bank" in their title by

other banking institutions was prohibited. Every savings bank was required to make a quarterly report to the Auditor of State, giving in detail a statement of its condition upon a given day. This statement was to be made under oath of the officers, and was also required to be published in the county where the bank was located. False statements by officers or agents were declared to constitute a felony and were made punishable as such. The statements were required to specify the capital stock, the debts of every kind, the deposits, the amount of deposits with other banks, the amount of gold and silver on hand, the amount of discounts (good, doubtful, or in judgment), the amount of personal property, the undivided profits, and the total liabilities of the directors.

The Auditor of State was directed to report the condition of all savings banks at each session of the General Assembly. He could require additional statements from the bank and could make examinations at any time. In case a bank was found to be unsafe, provision was made for the closing of its business.

The law provided for increasing the capital stock by a vote of two-thirds of all the shares of the existing capital, each share having one vote. It also enabled institutions which had been previously organized under the general corporation law to reorganize under the provisions of the new act.<sup>311</sup>

This law was severely criticised as being lax in its provisions and as being drawn for the benefit of borrowers and not with the idea of the absolute security of depositors in view. The required statements were described as meager and unsatisfactory and the limitation upon the amount to be loaned to one individual or firm a farce.<sup>312</sup> As a matter of fact the growth of the savings bank business in Iowa has been rapid. Little modification has been made in the laws governing such banks, and most of the changes that have been made apply to both State and savings banks.

The provisions regulating the examination of savings banks by State examiners are the same as for State banks. That is, the State Auditor was authorized to appoint one or more examiners in 1890 and the banks paid the expenses connected with examinations and paid fees to the examiners. Changes were made from time to time until the Superintendent of Banking may now appoint not less than six nor more than eight examiners who receive regular salaries from the State. These examiners must have had at least three years' experience in practical bank work or as bank examiners in order to qualify for the position. Banks and loan and trust companies are required to pay annual fees to the State banking department, which fees are graduated in proportion to the capitalization of the banks. The Auditor formerly could and the Superintendent of Banking may now require an examination to be made at any time and may call for statements as often as five times in a year. Such statements must show the condition of the bank on designated past days and must be published in the regular issue of some paper in the city, town, or county in which the bank is located.<sup>313</sup>

In order to provide for the better security of depositors in savings banks the Twenty-fifth General Assembly authorized the board of directors of any such bank, the capital stock of which had become impaired, to levy an assessment upon the shareholders *pro rata* for the amount of stock held by them and at such rate as was necessary to meet the deficiency. Directors failing or refusing to levy such an assessment when the conditions required it were made individually liable.<sup>314</sup>

The *Code of 1897* rearranged the law and added a reserve requirement. Savings banks doing a commercial business in towns or cities having a population of less than three thousand are required to keep a cash reserve equal to fifteen per cent of their sight and demand deposits, and eight per

cent of their savings deposits. Such banks located in cities of more than three thousand inhabitants are required to maintain a cash reserve equal to twenty per cent of their sight and demand deposits, and eight per cent of their savings deposits and time securities. Banks doing an exclusive savings bank business are required to keep a cash reserve equal to eight per cent of their deposits. Eighty-five per cent of such reserve may be kept on deposit, subject to call, with other banks.<sup>315</sup>

The Twenty-eighth General Assembly authorized savings banks to build up a surplus fund to be maintained as such and invested in the same manner as the capital of the bank was invested; and this surplus was to be included in determining the amount of deposits a bank could receive. Two years later savings banks were authorized to receive on deposit money equal to twenty, instead of ten, times the aggregate amount of its paid-up capital and surplus.<sup>316</sup>

The provisions regulating the limit of the liability of banks and those relative to the investment of funds have been made more inclusive. Some slight amendments and additions have been made to the law relative to the action of directors, loans to officers, the misuse of funds, and the notice of incorporation. Savings banks may also, when so authorized by their articles of incorporation, transact a trust business, and they may reorganize and become members of the Federal Reserve System.<sup>317</sup>

#### LOAN AND TRUST COMPANIES

Loan and trust companies have not received much legislative attention in Iowa; but it appears that a certain amount of loan and trust business was transacted for some time without special regulation. The first important reference to loan and trust companies in the statutes of Iowa appears in section 1889 of the *Code of 1897*, which prohibited the transaction of banking business by corporations,

except as authorized by the banking laws, "except that loan and trust companies may receive time deposits and issue drafts on their depositaries, but such companies shall be subject to examination, regulation and control by the auditor of state, like savings and state banks, and their stockholders shall be liable to the creditors of such companies as provided in section eighteen hundred and eighty-two of this chapter for stockholders in savings and state banks." A violation of this provision was sufficient cause for the forfeiture of the charter of the association.<sup>318</sup>

The Thirtieth General Assembly, in 1904, required loan and trust companies to have a fully paid-up capital of not less than the amount of capital of savings banks — that is, not less than \$10,000 in cities and towns having a population of less than ten thousand, nor less than \$50,000 in cities having a greater population. All the laws relative to bank examiners and examinations and annual fees required from banking associations were made applicable to loan and trust companies in 1906.<sup>319</sup>

The law regulating loan and trust companies remained incomplete and was very unsatisfactory. One indication of the dissatisfaction with the law was shown in 1907, when the legislative committee of the Iowa Bankers' Association favored the enactment of a law "for the proper and adequate regulation, control and operation of trust companies, and to confer upon said trust companies and banks the powers ordinarily exercised by trust companies in other states including the right to administer estates and execute trusts."<sup>320</sup> Among the powers ordinarily exercised by trust companies are those of trustee, executor, administrator, guardian, committee, receiver, assignee, transfer agent, registrar, investment agent, fiscal agent, promoter, and underwriter. Moreover, they ordinarily do a guarantee, safe deposit, and general banking business.

Legislation on this subject was slow in coming, and it was

not until 1913 that the General Assembly passed a more comprehensive law entitled "An Act to confer additional powers upon trust companies, state and savings banks and to prescribe the conditions under which they may transact business." This long and detailed act of eleven sections grants additional powers to savings banks, State banks, and trust companies, the most important of which is the right to act in a fiduciary capacity in the same manner as a natural person, except as to the guardianship of persons.

The law declares that the following features of the savings bank law shall apply to loan and trust companies: the renewal of corporate existence, the formation and organization, the articles of incorporation, the payment of capital, the management of the business, the qualifications of the directors, the meetings of stockholders, the deposits, the shares, the deposits by executors and minors, the increasing of the capital stock, the dissolution of the corporation, the reorganization of the bank, and the reserve requirements.

The following regulatory provisions which were applicable to both State and savings banks and all the amendments thereto were also made applicable to loan and trust companies: the misnomer clause, the pay of and loans to officers, the limit of liabilities, examinations and special reports, quarterly statements, proceedings against the company, receivers, assignments and their enforcement, the liability of directors and of shareholders, fraudulent business and the penalties therefor, and statements of business and conditions. The law requires some additional information to be included in the quarterly statements showing a list and description of the trusts held, the source of appointment, and the amount of real and personal estate so held. The law places banks and loan and trust companies in nearly the same position; indeed, it appears that the trust company in this State is simply a bank which has the power to act as trustee, administrator, guardian, or executor.<sup>321</sup>

In 1915 the law was amended so as to permit national banks to exercise the same powers and perform the same duties as were previously conferred upon trust companies. Provision was also made to allow any State or savings bank or trust company to become a member of the Federal Reserve System.<sup>322</sup>

#### PRIVATE BANKS

The legislative opposition to banks during the Territorial and early State period was conducive to the growth of private banks. The wild cat banking which was so common made the pioneers wary, and the Constitution of 1846, under which the State of Iowa was admitted into the Union, prohibited the legalization of banking altogether. Indeed, no legal relief was had until 1858. During this period the country was developing rapidly and there was a growing demand for a reliable medium of exchange and for general banking facilities.

Keen business men were quick to take advantage of this demand and the business of banking was taken up as a side line with other business. In many cases the banking business became more important than the other activities of the men in charge; and so they came to give their entire time and energy to that branch of their business. This branch of banking has fluctuated from year to year with a tendency in very recent years to decline. Definite information relative to the number and the amount of business done by private banks is not available. The State legislature has attempted from time to time to bring this class of banks under State control, but without much success. The only legislation directly affecting them is the negative provisions of the State and savings bank laws which prohibit unauthorized banking associations from incorporating either the word State or savings in their names.

## THE STATE BANKING DEPARTMENT

In 1917 a State Department of Banking was established and all the business connected with the supervision of banking was transferred from the State Auditor's office to that of the newly created Superintendent of Banking. The act simply provides for the establishment and for the appointment, removal, salary, and regulations of the Superintendent; for quarters and examiners and clerks and declares that the Auditor shall be relieved of all duties in connection with the banking department of the State. This action has long been needed on account of the many duties of the Auditor, and it is hoped that the relief from the former congestion provided in the separate department will make toward a more efficient administration of the banking laws of the State.<sup>323</sup>

TAXATION OF BANKS AND TRUST COMPANIES<sup>324</sup>

It will be remembered that the Constitution of 1846 prohibited banking in the State and that the *Code of 1851* contains stringent statutory prohibitions. Moreover, it appears that these provisions were made for the purpose of prohibiting banks of issue rather than ordinary banks of discount and deposit. It has been further noted that banking was carried on in the State from 1846 to 1857, notwithstanding the constitutional and statutory prohibitions.

That banks did actually exist in this State and were recognized is indicated by the provisions of the *Code of 1851* for the taxation of the shares of stock in banks. Under property liable to taxation there is included "stock or shares in any bank or company incorporated or otherwise, and whether incorporated by this or any other state, and whether situated in this state or not". Depreciated bank notes and depreciated stock or shares in corporations were to be listed "at their current value and rate".<sup>325</sup> No further provision was made for the taxation of banks until the gen-



eral banking act and the law providing for the organization of the State Bank were passed in 1858. Reference has been made to the constitutional provisions under which these laws were enacted and submitted to the electors for approval.

The act to incorporate the State Bank of Iowa contains only one section which relates to taxation: it states that the "General Assembly shall never impose any greater tax upon property employed in banking under this act, than is or may be imposed upon the property of individuals." The act authorizing general banking in Iowa declared that shares of stock in banking corporations are personal property, and provided that taxes should be levied upon the corporation as such and not upon the individual stockholders—the value of the property to be determined annually by the bank commissioners. The rate of taxation was to be the same as that levied on other taxable property.<sup>326</sup>

The creation of a national banking system by Congress rendered further legislation necessary; and so the Eleventh General Assembly in 1866 passed a law relative to the taxation of the shares of national banks. This measure provided that all shares in national banks should be included in the valuation of the personal property of the owners, and be assessed at the location of the bank at a rate not greater than was assessed upon other moneyed capital in the hands of individuals. The real estate owned by national banks was subject to taxes the same as other real estate. Each banking association was required to list its shares, giving the names of the owners and the amount owned by each. Moreover, each association was made liable for the payment of the tax as agent of each of its shareholders, and so much of any dividend as was necessary to pay the tax could be withheld by the bank.<sup>327</sup>

The validity of the statute of 1866 imposing a tax upon the shares of stock of national banks was contested and de-

clared to be unauthorized and invalid by the Iowa Supreme Court in 1867. A detailed treatment of this interesting case can not be given in this connection, but as a result of the decision the act of 1866 was repealed and other provisions enacted in 1868 for the taxation of national banks. The new law was practically identical with the one which had been declared invalid in the provisions for taxation, but it repealed all acts and parts of acts inconsistent with its provisions. It, moreover, provided that in case the national banking system should be changed at any time the assessment of shares should then be made in such a manner as to conform to the changes made. It provided further that such shares were not to be assessed at a greater rate than that imposed on other moneyed capital in the hands of individuals.<sup>328</sup>

This law soon appeared in the courts for adjudication and the Supreme Court of the State held that the objectionable features of the former law had been removed. These cases definitely sustained the right of the State to tax the shares of national banks.<sup>329</sup>

The general banking act and the law providing for the organization of the State Bank of Iowa were both repealed in 1870, and no additional law relative to bank taxation was enacted until 1874. It should be noted, however, that private banks were taxed under the provision of the *Code of 1873*, which required personal property to be listed and assessed each year in the name of the owner.<sup>330</sup> The following paragraph was added to this section in 1874:

Except moneys and credits of associations, organized under the general incorporation laws of this state, for the purpose of transacting a banking business, and moneys and credits of private bankers, and others who have loaned money, bought notes, mortgages, or other securities within the year previous to the time of assessing; in every such instance the average value of the moneys and credits which have been in the possession or under the control of the person

making the list during the year previous to the time of making said assessment, shall be listed for taxation.<sup>331</sup>

The savings bank law of the same year specifically stated that savings banks were to be taxed on their paid-up capital and be subject to the same rates of taxation and rules of valuation as other taxable property. The taxes were to be levied on and paid by the bank and not by the individual stockholders. Moreover, the law stated that a greater tax should never be imposed on property employed in banking than that imposed upon the property of individuals. Finally, the law exempted from taxation the franchise of savings banks, the savings and funds deposited in them, and the mortgages and other securities.<sup>332</sup>

In 1890 the Twenty-third General Assembly enacted a law which required all shares of the capital stock of State or commercial banks to be assessed to the banks as such in the city or town where located, and not to the individual shareholders. It has been pointed out that the shares of national banks are assessed to the individual stockholders.<sup>333</sup> Litigation resulted because of this difference in method of taxation, but the courts upheld the validity of the acts as being general and not special laws for the assessment and collection of taxes.<sup>334</sup>

Under the provisions of the law as compiled in the *Code of 1897* private banks are assessed on the aggregate value of moneys and credits, after deducting from that value the amount of deposits and of debts owing by the banks; on the actual value of stocks and bonds, after deducting those exempt from taxation; and on the other property pertaining to the business. The shares of stock of State and savings banks and loan and trust companies are assessed to the banks and trust companies, respectively, as such and not to the individual shareholders. To aid in fixing the value of shares such associations are required to furnish verified

statements showing separately the amount of capital stock, surplus, and undivided profits. National bank shares are assessed to the individual stockholders at the place where the bank is located. All of this amounts to a requirement that national, State, and savings banks and loan and trust companies shall pay taxes on their capital stock, surplus, and undivided profits.<sup>335</sup>

A slight change was made in 1906 relative to deducting real estate in the valuation of stock; and a very important change was made by the Thirty-fourth General Assembly in 1911. This law, among other things, provided for the taxation of moneys and credits at a uniform flat rate of five mills on the dollar of actual valuation, which sum was to be in lieu of all other taxes upon moneys and credits. It provided that no deduction should be allowed for debts on any kind of bank stocks or moneyed capital. It provided, moreover, that the "shares of stock of national banks and state and savings banks, and loan and trust companies, located in this state, shall be assessed to the individual stockholders at the place where the bank or loan and trust company is located." In order to determine a taxable value for bank stocks and moneyed capital relatively equal to the taxable value at which other property is assessed, as compared with its actual value, such stocks and moneyed capital were to be assessed thereafter upon the taxable value of twenty per cent of their actual value.<sup>336</sup> This law, as the reader can see, changes the method of taxing the stock or shares of both State and savings banks and the shares of loan and trust companies, and makes the shares of all such companies taxable to the individuals, just as national bank shares were previously taxed. The laws of the Thirty-fifth General Assembly provide a penalty for any bank official who refuses to furnish the assessor with a list of stockholders and other information required by law.<sup>337</sup>

The laws relative to the taxation of banks in Iowa have been involved in almost constant litigation. The principle of taxing the shares of stock of banks has been followed since 1851. The general banking law of 1858 provided for the levy of taxes against the banks as such; and the State Bank Act prohibited the imposition of taxes at a greater rate than was levied on the property of individuals. The creation of the national banking system brought about the repeal of both of these laws. A statute of 1866 provided for the taxation of the shares of stock in national banks; but this law was declared unconstitutional on the ground that it discriminated against national banks, which were taxed on their shares of stock while other banks were taxed on their capital. This discrimination was remedied by a law passed in 1868.

Before 1874 the assets of private banks had been assessed as personal property. In that year a new law provided that such banks should be taxed upon the average value of moneys and credits owned or controlled by them during the previous year. The law establishing savings banks provided for the taxation of such banks on their paid-up capital.

In 1890 the capital stock of State and commercial banks was made assessable to the banks as such and not to the individual stockholders. Three classes of banks were then recognized for purposes of assessment and taxation from this time until 1911. They were, first, private banks taxable on their moneys and credits, including stocks and bonds, less deposits, just debts, and non-taxable securities; second, national banks, taxable on the shares of stock at the place where the bank was located; and third, State, savings, and commercial banks, the shares of stock of which were made taxable to the bank as such and not to the individual stockholders.

The law relative to private banking associations remains practically unchanged; but in 1911 provision was made to assess the shares of national banks, State and savings banks, and loan and trust companies, to the individual stockholders at the place where the corporation is located, rather than to the banks as such.

## IX

### BUILDING AND LOAN ASSOCIATIONS

A building and loan association — using the term to include all kindred associations — is a private corporation organized for the purpose of accumulating the money of its members, by periodical payments into the treasury, to be invested in loans to the members upon real estate for building purposes. The borrowing members pay interest and a premium as a preference in order to secure loans over other members and in addition continue their fixed periodical installments. These payments and the payments made by non-borrowing members, in addition to fines, forfeitures, fees, and other revenues, go to make up a common fund which is accumulated until in payments and profits it equals the face value of all the shares in the association, when the assets, less expenses and losses, are *pro rated* among the members, which cancels the borrower's debt and gives the non-borrower an amount equal to the face value of his stock.

Every member of such an association must be a stockholder. The stock is paid for by the regular, usually monthly, payment of a stipulated minimum sum — the payments being continued until the aggregate of the money paid, increased by the profits, amounts to the maturing value of the stock, at which time the member is entitled to the full maturing value of the share and surrenders his share for the amount.

The amount of the capital of such an association is constantly increasing, and the success of the concern depends upon its ability to keep its money constantly employed in

profitable investment. The nature of the business and the safeguards surrounding it preclude the danger of a run upon the concern by stockholders. Such associations have had an important influence upon the financial condition of the State upon one or two occasions.<sup>338</sup>

Building and loan associations have been in existence in the United States since about 1840. They became numerous in Iowa about 1888 and 1889. The first legislation in the State relating to such concerns was enacted in 1872 when a measure entitled "An Act to Enable Co-operative and Mutual Loan Associations to raise Funds to be loaned among their Members for building Homesteads, and for other Purposes, to become a Body corporate" was passed.<sup>339</sup> This law provided that five or more persons might incorporate under the general incorporation laws of the State to raise money for the purpose stated in the title of the act.

Companies so organized were authorized to raise money among their members by stated dues, fines, interest on loans advanced, and premiums bid by members for the right of precedence in taking loans; they were also authorized to deal in real estate and personal property. The dues, fines, and premiums paid by members were not to be considered usurious, and no member was permitted to hold more than twenty shares.

Similar associations organized prior to the passage of the law were given the same privileges as those organized subsequent to its passage. An amount not to exceed ten per cent of the earnings might be set aside for current expenses and necessary real estate. The residue of the earnings were to be transferred to the credit of the shareholders, and when the shares were fully paid, they were to be distributed ratably to the shareholders.

No further legislation was enacted on this subject until 1896 when an act "defining building and loan or savings and loan associations and providing for the organization,



regulation, examination and control, and providing a penalty for the violation of said regulations, and repealing acts and parts of acts inconsistent with this act'' was passed.<sup>340</sup> This law declared that corporations organized for the purpose of furnishing money to their members upon sufficient security should be known as building and loan or savings and loan associations. Three classes of associations were defined: domestic local associations whose business was confined to the city or county in which the association was located; domestic associations, whose business was not so restricted; and foreign associations, which were incorporated in other States.

Five residents might incorporate as a building and loan or savings and loan association under the general incorporation laws of the State and were authorized to commence business as soon as one hundred shares were subscribed. The law specified that such an association should be governed by a board of directors elected by the stockholders. The content of the articles of incorporation was prescribed and the articles were required to be approved by the Executive Council, certified by it, and filed in the office of the Auditor of State, who then issued a certificate of authority for the concern to transact business. The officers of such associations were also required to give bonds approved by the State Auditor. The law specifically prohibited any building and loan association from receiving deposits of money without issuing shares of stock or from doing any banking business.

Such associations were given power to issue stock to members to be paid for in single, stated, or monthly payments. The amount to be issued to any one person was limited to ten thousand dollars. They were allowed to collect dues, fees, fines, premiums, and interest upon loans in accordance with their articles of incorporation, and such collections were not to be considered as usurious. They

were permitted to buy and convey real and personal property and to make loans upon real estate and on securities, and other regulations were laid down for the investment of funds. Members were to be permitted to withdraw stock deposits at any time, in accordance with the articles of incorporation.

The expense account of such associations was limited to certain fixed proportions of the amount of stock. The profits were all to accrue to the benefit of the shareholders. The Auditor of State was empowered to cause such associations to be examined at least once a year and report the conditions to the Governor biennially. Provision was also made for the closing up of the affairs of any association that did any unsound or illegal business.

Foreign associations were placed under stringent regulations. They were required to file with the Executive Council a certified copy of articles of incorporation and by-laws, and a detailed financial statement. Before a certificate was issued authorizing such an association to transact business in the State, a deposit of \$100,000 in securities was required as security for resident shareholders. The concern must also file a resolution agreeing to the serving of legal process in a certain manner. Moreover, foreign associations were discriminated against in the matter of fees.

All building and loan or savings and loan associations doing business in the State were required by law to file annually during January, with the State Auditor, a detailed report and financial statement of their business for the previous calendar year. Heavy penalties were prescribed for failure to report. The enforcement of the provisions of the law was placed in the hands of the State Auditor who was given authority to revoke the certificate of authority to do business in the State of any association that violated any of the provisions of the statute.

The law went into effect on July 4, 1896, and associations

doing business in the State prior to the enactment of the new law were required, within sixty days, to reincorporate or so amend their articles of incorporation and by-laws as to comply with the provisions of the new act. There were few changes made in the law as it appeared in the *Code of 1897*; and a legalizing act was passed in 1898 for the purpose of legalizing contracts made prior to the taking effect of the Code. Important additions and amendments were made by the Twenty-eighth General Assembly in 1900.<sup>341</sup>

This act of 1900, among other things, forbade the issue of preferred stock by building and loan associations. It prescribed a new schedule of rates, fixing the maximum percentage of the assets which an association would be permitted to use for salaries and current expenses. It fixed the maximum fines to be charged to stockholders whose payments were in arrears, and defined the terms of withdrawal. It limited the rate of premium and interest charged to members on loans to eight per cent, and defined the terms upon which non-borrowing members might withdraw from an association.

The law, moreover, defined the terms upon which mortgages might be foreclosed by associations. It prescribed the procedure in case of voluntary liquidation, as well as in case of consolidation with other companies. The rate of interest chargeable was limited to eight per cent; and discriminatory rates of interest among members were prohibited. The Executive Council was empowered to revoke the certificate of authority to transact business of any association doing an illegal business; and it was declared unlawful for any person to sell stock in any association not authorized to do business in the State. The Executive Council was given discretionary power in the matter of deciding whether the articles of foreign corporations complied with the laws of the State and whether they afforded equal security and protection to the members. In case they did

not, such association could not secure authority to transact business in this State. And finally, penalties were provided for the violation of the new provisions and a legalizing clause was attached to prevent the impairment of any contract effected by the act.<sup>342</sup>

The Twenty-ninth General Assembly in 1902 provided for the regulation of unincorporated building and loan associations by extending the law pertaining to incorporated associations to cover those which were unincorporated, in so far as it could be made applicable. Such associations were required to submit their plans of business to the Executive Council for approval and to deposit securities of a certain prescribed class, in the amount of \$50,000, with the Auditor of State. Such securities were to be held in trust for the purpose of securing the fulfilling and carrying out of all contracts made by such associations. No unincorporated association was to be permitted to operate unless the Executive Council approved its plan of business. The officers were required to give bonds subject to the approval of the State Auditor, who was also empowered to require detailed reports and financial statements similar to those required of incorporated companies and to cause examinations to be made as often as four times a year. Severe penalties were prescribed for violation of the law and for the misuse of the funds of an association by an officer or agent. Violation of the law was also cause for the revocation of the certificate of authority to transact business and for the appointment of a receiver to close up the affairs of the association.<sup>343</sup>

In 1911 the general incorporation law was so amended as to limit the incorporation fee for building and loan associations to a maximum of twenty-five dollars and to exempt such associations from the payment of renewal fees.<sup>344</sup>

## THE TAXATION OF BUILDING AND LOAN ASSOCIATIONS

No provision was made for taxing building and loan associations until in 1876, when the following method was prescribed:

That the shares of stock of mutual loan and building associations, shall be assessed at their cash value but that only the unredeemed shares of such stock shall be taxed and such unredeemed shares shall be listed to the individual owners thereof.<sup>345</sup>

The law of 1896 which defined such associations and prescribed rules and regulations for them provided that the shares of stock of building and loan associations should be classified as moneys and credits for the purposes of taxation.<sup>346</sup> New provisions for the taxation of these associations appear in the *Code of 1897*. The shares of stock are to be assessed to the individual holders at their place of residence, but the reserve and other funds of such an association are subject to taxation at its principal place of business, and are to be assessed against it as other personal property and paid by the association. Detailed regulations are provided to insure the listing of such property for assessment.<sup>347</sup>

The section of the *Code of 1897* above referred to was repealed in 1913 and a substitute section enacted. The substitute provides that the real estate owned by the association shall be taxed in the same manner as the reserve fund and some change is made in the manner of listing the property, but the method of taxation remains unchanged.<sup>348</sup>

Building and loan associations have existed in the State for about fifty years. The first legislation relating to them, passed in 1872, remained practically unchanged until 1896 when a more comprehensive law was placed upon the statute books. This law came as a result of the increasing number of associations which were being organized about that time.

An examination of the Auditor's reports (1887-1914) reveals the fact that there were more building and loan associations organized and doing business within the State and that they were doing more business during the first year of the operation of the law of 1896 than for any subsequent year. There were at that time one hundred and seventeen associations with assets of more than twelve million dollars, and the Auditor took occasion to state that such associations were exerting a large influence on the finances of the State and in his opinion were very desirable institutions. Almost immediately, however, the number of associations decreased. The Auditor reported in 1901 that building and loan associations had not prospered in the same measure as the other moneyed institutions of the State — due to the lower rates of interest and the smaller demand for money. A few years later he reported that these associations would all quit the field.<sup>349</sup> This type of institution seems to have regained some favor in very recent years, however, and the report for 1914 shows that the number of concerns was fifty, with assets of above seven millions of dollars and receipts of more than four millions of dollars.<sup>350</sup> Such associations have undoubtedly served a valuable purpose and are still filling a need in helping to finance the building of homes.

## X

### TRADE AND COMMERCE

As used in this connection the expression "trade and commerce" is very inclusive: it comprehends traffic by the purchase, sale, or exchange of commodities, the transportation of persons or property, and navigation. The regulation of trade and commerce is carried on through both national and State agencies. Thus the Federal Constitution gives Congress the power to regulate commerce with foreign nations and among the several States; while the States have control over intrastate or domestic commerce.

Legislation pertaining to the regulation of navigation, transportation, corporations, insurance, and banking, having been treated in earlier chapters of this book, need not be discussed in this connection. In the present chapter only those laws will be considered which aim to safeguard the interests of the consumer and the creditor, and those which aim to promote and safeguard business.

#### LAWS TO PROTECT CONSUMERS

The statute books of Iowa contain many laws enacted for the purpose of affording protection to the consumer of goods. Among these are to be found laws relating to the regulation of weights and measures, pure food laws, misbranding laws, anti-adulteration laws, and inspection laws.

*The Regulation of Weights and Measures:*—The first law pertaining to weights and measures was enacted by the Legislative Assembly of the Territory of Iowa in 1839. It was entitled "An Act regulating weights and measures",<sup>351</sup>

and under its provisions the several boards of county commissioners of the counties in the Territory were required to procure for their respective counties a set of standard weights and measures, to be kept by the clerk of the county court, for the purpose of trying and sealing the weights and measures used in the counties. Persons buying or selling commodities by measure or weight could have their measures compared with the county standards and have them sealed; and persons buying or selling commodities by measures or weights not corresponding to the county standards were liable to a fine of twenty dollars for each offense. The standards to be procured were to consist of the inch, the foot, and the yard for linear measure, the half-bushel for dry measure, the gallon for liquid measure, and a set of avoirdupois weights.

A more comprehensive and detailed law was passed on this subject in 1843. More standards were to be provided, and the people of each county were required to elect annually at the general election an inspector of weights and measures. The inspector so elected was to give bond for the faithful performance of his duties. He was provided with a seal and authorized to inspect and compare the weights and measures in use in the county with the county standards, and to brand or seal such weights and measures as conformed to the legal standard. Every person using unlawful weights or measures became liable, upon conviction, for treble damages and the costs of suit. The law specifically stated that all contracts made thereafter in the Territory for work to be done or for the sale of any commodity should be made according to the standards provided by the act; but parties were permitted to adopt a different standard of weight and measure by mutual agreement. The legal weights per bushel of grains usually sold by the bushel — wheat, rye, corn, barley, and oats — were fixed, and the act of 1839 was repealed.<sup>352</sup>



The law regulating weights and measures was redrawn in the *Code of 1851*. As it appeared there the law required the Treasurer of State to procure a set of weights and measures, and designated the particular standards to be procured. The county judge of each county was required to obtain a set of weights and measures accurately corresponding with those procured by the State Treasurer and deposit them in the office of the county treasurer; and these were to constitute the county standards. Any person desiring to have his weights or measures inspected was to apply to the county treasurer at his office. It was the treasurer's duty to test such weights or measures, and he was permitted to charge a fee for his work.

The hundred weight was declared to consist of one hundred pounds avoirdupois, and the ton to consist of twenty hundred weight. Contracts not specifying some other standard of weight or measure were declared to mean the legal standards; and a bushel of certain articles mentioned was declared to mean the amount of weight specified in the law.<sup>353</sup>

Some amendments and additions to the law were made from time to time during the next ten years for the purpose of establishing the legal weight of certain commodities — such as coal, lime, grains, and grasses — which had not been determined. Provision was also made for the inspection of lumber and shingles; and the Secretary of State was appointed keeper of the official weights and measures of the State.<sup>354</sup>

In 1862 the weight and measure law was again redrawn. The new law declared that the standard weights and measures which had been furnished to the State by the United States government should be the standards of weight and measure throughout the State. Standards were defined in detail and provision was made for the appointment, by the Governor, of a Superintendent of Weights and Measures to

have charge of the standards and to have general supervision of the weights and measures of the State. The superintendent was to procure a set of copies of the original standards to be used in adjusting county standards.

The boards of supervisors of the several counties were authorized to procure authenticated standards from the State Superintendent of Weights and Measures, and to appoint county sealers for their respective counties. Provision was also made for the appointment of city sealers and the duties, powers, and fees of such officials were specified in detail.

The law declared that the standard weights and measures as defined and provided for in the act should govern all contracts for work to be done or for anything to be sold by weight or measure within the State; and penalties were provided for selling anything by any weight or measure not conforming to the State standards. It was, moreover, made the duty of every person keeping commodities for sale by weight or measure to have his weights and measures compared with the standards at least once each year.<sup>355</sup>

Regulations for weighmasters of public scales were enacted in 1864 and amended in 1872. These regulations required such weighmasters to take oath to keep the scales correctly balanced, to make true weights, to render a correct account to the person for whom the weighing was done, and to keep a correct register of all weighing done, showing the weight, name of person for whom weighing was done, and the date. Upon demand the weighmaster was required to furnish a certificate, showing the above data for his own weights, to any person for whom weighing was done. Weighmasters were also required to keep a standard fifty pound weight for testing their scales and to test and balance such scales at least once a month. Penalties were provided for violations of the act.<sup>356</sup> This law remained unchanged until 1911, except for an occasional amendment

defining or changing the weight of a bushel of some commodity.<sup>357</sup>

The law of 1911 empowered the State Food and Dairy Commissioner and his assistants to inspect scales, weights, and measures wherever the same were kept for use in connection with the sale of merchandise or any commodity sold by weight or measure, or where any product was manufactured under contract by weight or measure. The commissioner was authorized to procure from the State Superintendent of Weights and Measures the necessary standards and make inspections upon complaint as well as upon his own initiative. Provision was made for procuring necessary standards, and penalties were fixed for keeping false weights and measures.<sup>358</sup>

The whole law pertaining to weights, measures, and inspection was rewritten and enlarged in 1913 and amended in 1915 and 1917. The standard measures of length, surface, volume, and weight were redefined in more detail, and the State standards were declared to conform to those of the United States. The number of articles to be measured by bushel weight was increased; the capacity of fruit and berry boxes was required to be full measure; and the seller of goods not measured by standard weights or measures was required to furnish to the buyer, upon request, a written statement of the net weight of the goods. Reasonable variations were permitted, but the use of bottomless measures was prohibited unless they conformed in shape to the United States standard measure. The law required the standardization of milk bottles. It required the sale of coal, coke, and charcoal to be made by weight only, and provided a method for the verification of the amount in weight sold to each customer. It required the licensing by a State official of every slot or automatic weighing device and the payment of an annual licensing fee of three dollars for each machine or device operated.

The inspection of all scales, weights, and measures kept for use in connection with the sale or manufacture of any commodity was provided for — the inspection to be made upon complaint or upon the initiative of the inspector. The possession of false scales or measures was prohibited under penalty and they were subject to confiscation by the inspector.

The enforcement of the law was placed under the supervision of the State Dairy and Food Commissioner, who was empowered to appoint a chief inspector of weights and measures upon the approval of the Executive Council, which chief inspector was to be paid a regular salary and work under the supervision of the commissioner. Provision was also made for the appointment of the necessary number of assistant inspectors.

The commissioner was also required to appoint an employee of the dairy and food commission to be State sealer of weights and measures and to have charge of the standards of the State. He was given general supervision of the weights and measures in use in the State, and was required to make tests of weights or measures or devices upon written request. The department of physics of the State University of Iowa was required to render technical aid in necessary cases.<sup>359</sup>

All the acts or parts of acts conflicting with the rewritten law were repealed. The law is comprehensive and is an improvement over the previous law.

*Pure Food and Inspection:*— Pure food laws, misbranding laws, anti-adulteration laws, and inspection laws are all very closely connected: they all have a common purpose, which is to protect the health of the people and to prevent them from being imposed upon and cheated by paying for an article and getting an inferior substitute. There has been a large amount of legislation on this subject, but the

laws enacted before 1886 were of a rather fragmentary character. Since that time such legislation has centered about the State Dairy Commissioner and his successor the State Dairy and Food Commissioner.

In 1838 the first Legislative Assembly of the Territory passed an act "to punish the venders of unwholesome liquors and provisions" which provided a heavy fine for the sale of unwholesome or adulterated goods. The *Code of 1851* contained more inclusive provisions for the prohibition of the sale of unwholesome or adulterated foods, liquors, drugs, and medicines. Misbranding was also prohibited and the penalties were made heavier. Fragmentary legislation continued to be enacted after the Code was adopted: acts were passed to prevent the adulteration of milk and cheese, to prevent the misbranding of dairy and other food products, to require the correct labeling of mixtures, and to establish a uniform cream gauge.<sup>360</sup>

The manufacture and sale of oleomargarine for butter and the use of foreign substances in the manufacture of cheese became widespread during the years from 1880 to 1886. This counterfeit product tended to decrease the legitimate dairy industry in the State not only by narrowing the market within the State, but also by injuring the reputation of the State dairy products in the large eastern markets. This state of affairs brought about the enactment of a law, in 1886, entitled "An Act to Prevent Deception in the Manufacture and Sale of Imitations of Butter and Cheese." The law required all such imitations to be clearly marked, and prohibited the shipment of such products unless clearly marked. Other restrictions were provided and the penalty was severe. The first part of this law was very much like the statutes which had preceded it.<sup>361</sup>

In addition to the above provisions the office of State Dairy Commissioner was created. The commissioner was given a regular salary and his duty was to secure, so far as

possible, the enforcement of the law. He was given power to secure data and information and was required to report annually to the Governor of the State.<sup>362</sup> By this act the legislature recognized the futility of passing prohibitory laws without adequate means of enforcement. The law carried with it an appropriation large enough to insure its successful administration. During this same year (1886), oleomargarine became subject to taxation under the United States internal revenue laws, and this provision to some extent facilitated the enforcement of the State law in that it made easy the discovery of such product.

In spite of the experience with such laws, the legislature continued to pass separate fragmentary acts to prohibit the mislabeling of food products and the sale of adulterated goods such as lard, flour and mill products, canned fruits, and poisons.<sup>363</sup> The powers and duties of the State Dairy Commissioner were enlarged in 1892. He was authorized to appoint an agent in every city of over ten thousand inhabitants to collect samples of milk for examination and every milk dealer in such cities was required to secure a permit from the commissioner and pay an annual fee of one dollar. A register of permits was to be kept by the commissioner, and violations of the law were to be punished.<sup>364</sup>

The Twenty-fifth General Assembly, in 1894, redefined imitation butter and cheese and described illegal mixtures and colorations of products in more detail. It prohibited the use of imitation butter and cheese products in public eating places except when their use was advertised; and the method of testing milk was regulated. Provision was made in 1896 for the publication, at State expense, of the annual proceedings of the Iowa State Dairy Association—the object being the encouragement of the dairy industry in the State.<sup>365</sup>

The law relating to the State Dairy Commissioner and the prohibition of imitation butter and cheese was changed

to some extent in the *Code of 1897*. The different parts of the law were collected and combined. More stringent provisions appear in the matter of marking imitation products and in regard to testing milk. In addition to the other regulations the law as it appears in the *Code of 1897* provides that cows kept for dairy purposes must not be kept in crowded and unhealthful places, nor be fed upon food which produces impure or unwholesome milk. Dealers were also required to keep their utensils in a clean and sanitary condition, and to fill out and send to the commissioner such blank reports as might be required by him.<sup>366</sup>

In 1900 provision was made for the appointment of a deputy and an assistant to the State Dairy Commissioner in order to enable him to better enforce the law.<sup>367</sup>

The amount of legislation on the subject of pure food and inspection, misbranding, and adulteration has been enlarged at each session of the General Assembly since 1904. By an act passed in 1906 the State Dairy Commissioner became the State Food and Dairy Commissioner with enlarged powers and duties. He was charged with the duty of enforcing the law; he was allowed to appoint, with the approval of the Executive Council, as many assistants as he deemed necessary, including an official chemist; he was charged with the making of all rules and regulations necessary for carrying out the provisions of the law; and he was authorized to procure for examination samples of food shipped into or offered for sale in this State. It was, moreover, made the duty of the several county attorneys in the State to assist the commissioner in the enforcement of the law.

The manufacture and sale of adulterated foods was also prohibited and an adulterated food was defined in detail. The labels required to be used were described and the style and content specified. The commissioner was authorized to issue bulletins showing the result of inspections, analyses,

and prosecutions. Penalties for violation of the law were prescribed; an appropriation was made to enable the commissioner to enforce the law; and conflicting acts were repealed.<sup>368</sup>

In addition to the above act an amendment gave the commissioner or his assistants power to enter any factory or building and to open, examine, and inspect any package or container believed to contain any product manufactured or sold in violation of the law.<sup>369</sup> Other amendments prohibited the sale or purchase of adulterated milk or cream, required the pasteurization of skimmed milk offered for sale, prohibited the manipulation of cream testers; and a concurrent resolution urged the Iowa members of Congress to favor the enactment of a national pure food law.<sup>370</sup>

The Thirty-second General Assembly passed no fewer than ten acts and one concurrent resolution on the subject of pure foods and pure products.<sup>371</sup> Chapter 131 defined paint and linseed oil, and required manufacturers and dealers to correctly label white lead, paints, mixed paints, and linseed oil. The required labels were defined and such products were to be sold only under their true name as determined by prescribed tests and standards. The enforcement of this act was placed in the hands of the State Food and Dairy Commissioner.

The matter of pure drugs received attention in Chapter 176 of the laws of the same session. By this law the manufacture and sale of adulterated drugs was prohibited. The terms "drug", "adulterated", and "misbranded" were defined in detail; the use of denatured alcohol in the preparation of any product intended for the use of man for medicinal purposes was prohibited; and the enforcement of this act was placed in the hands of the Pharmacy Commissioners. Other amendatory acts redefined terms, and food standards were established for flavoring extracts, vinegar, and butter. An appropriation for the enforcement of the



law was made and the salaries of the deputy and assistant commissioners were increased.

The most important law passed by the Thirty-second General Assembly having to do with pure products was entitled "An Act to prevent fraud in the sale of agricultural seeds, concentrated commercial feeding-stuffs and the materials from which they are manufactured, and to regulate the sale thereof, defining concentrated commercial feeding-stuffs and what shall constitute purity in various kinds of seeds; prohibiting the adulteration and providing for the correct weighing and marking of agricultural seeds and concentrated commercial feeding-stuffs; and providing for the collection of samples, analyses of the same, and fixing penalties for its violation; and vesting the execution and enforcement of this act in the state food and dairy commissioner, and making an appropriation therefor."<sup>372</sup>

According to the provisions of this statute every package of feeding-stuffs was required to bear a statement showing the number of net pounds of feeding-stuffs in the package, the name or trade mark under which the article was sold, the name and address of the manufacturer, the place of manufacture, and the ingredients of which the article was composed. Agricultural seed containers were required to show the name of the seed, the name and address of the seedman, the purity of the seed, and the locality where the seed was grown. Manufacturers and dealers were required to pay inspection fees, and dealers in proprietary medicines were required to pay an annual license fee of one hundred dollars in lieu of inspection fees.

The different products were defined in detail, and the weed seeds and other foreign articles which were to be considered as impurities in agricultural seeds were enumerated. A standard of purity and viability of agricultural seeds was established, and the method of enforcement of the law was provided. Penalties for violation were provided in

each of the acts passed; and the acts and parts of acts in conflict with the new provisions were repealed.

Amendments of minor importance were passed in 1909, together with a law to prevent, on the part of buyers of produce, unfair discrimination between different sections and communities in the State.<sup>373</sup>

In 1911 the law regulating the sale of boiled and raw linseed oil and the oil of turpentine was made more explicit. The law providing for the appointment of the State Dairy and Food Commissioner and describing his powers and duties, and providing for the appointment of his deputies and assistants and the State chemist, and providing for reports was completely rewritten. The provisions requiring licenses for persons or companies supplying milk to the retail trade in municipalities were made more inclusive, and stringent regulations were imposed upon the operators of milk testing apparatus.<sup>374</sup>

The pure food law was also changed in 1911. The terms "food", "misbranded", and "adulterated" were redefined, and a standard was prescribed for ice-cream. Slight changes and additions were made in the pure drug law; and a requirement provided that every bag, barrel, or package of flour offered for sale should have the net weight certified on the container. An addition to the law provided for the regulation of the marking of articles of merchandise made in whole or in part of gold, silver, or their alloys — in connection with which tests were prescribed and standards defined.<sup>375</sup>

In 1913 the Thirty-fifth General Assembly provided for the regulation of the following: cold storage and refrigerating warehouses; the sale of calcium carbide; the sanitation of food producing establishments; and the manufacture and sale of commercial fertilizers. Furthermore, it prohibited fraudulent advertising and amended the misbranding law to some extent.<sup>376</sup>

Something should be said of the new regulatory measures. Persons or corporations wishing to operate a cold storage or refrigerating warehouse were required to apply to the State Dairy and Food Commissioner stating the proposed location of the plant. The commissioner was then to cause an examination to be made of the sanitation and equipment of the plant. If the examination resulted favorably, a license was issued for one year upon the payment of a license fee of twenty-five dollars. The law defined the terms used. Moreover, such concerns were placed under the supervision of the State Dairy and Food Commissioner who was authorized to inspect the business or to appoint other persons, properly qualified, to make inspections. Unsanitary conditions were not to be tolerated and licenses could be revoked upon such ground. Accurate records were required to be kept of the receipt and withdrawal of food, and reports must be made to the commissioner quarterly or oftener. The quality of the food stored was regulated; and the storage period was limited to twelve months — although, under certain conditions, the commissioner could grant an extension of time for articles in good condition.

The law prohibited the sale of cold storage goods as fresh goods, and articles once released from storage could not be restored. The enforcement of the law was made a part of the duty of the Dairy and Food Commissioner, and penalties were provided for the violation of the law.<sup>377</sup>

The act regulating the sale of calcium carbide is neither so extensive nor so important. It prescribes the style of containers for such carbide, requires special labels, provides for analysis, and charges the Dairy and Food Commissioner with its enforcement.<sup>378</sup>

The content of the law requiring the sanitation of food-producing establishments is indicated in the title, which is as follows: "An Act providing for the sanitation of bakeries, canneries, packing houses, slaughter houses, dairies,

creameries, cheese factories, confectioneries, restaurants, hotels, groceries, meat markets, and all other food-producing establishments, manufactories, or other places where food is prepared, manufactured, packed, stored, sold or distributed, and vehicles in which food is placed for transportation; providing for the licensing of persons, firms, or corporations operating or conducting bakeries, candy factories, ice cream factories, canning factories, slaughter houses, meat markets or places where fresh meats are sold at retail; fixing such license fee and the duration of such license and the rights thereunder; defining food, regulating the wholesomeness of food manufactured, prepared, packed, stored, sold, distributed or transported; defining the duties of the state food and dairy commissioner in relation thereto; providing penalties for the violation thereof, and repealing acts in conflict therewith."<sup>379</sup>

Briefly this law attempts to secure the sanitation of the buildings, utensils, and surroundings of places in which food is produced. It requires so far as possible the cleanliness of the workmen, and prohibits the employment of diseased persons. A license fee of three dollars per year is required from each establishment and the licenses may be revoked for cause by the Dairy and Food Commissioner who is charged with the enforcement of the law. The inspection of establishments is provided for and penalties for the violation of the law are prescribed.

The law for the regulation of the manufacture and sale of commercial fertilizers contains no new features. The containers are required to be plainly marked showing the quantity and content of the material. An annual license fee of twenty dollars for each brand of fertilizer is required and the Dairy and Food Commissioner is charged with the enforcement of the law.<sup>380</sup>

Slight changes were made in the Pure Food Laws by both the Thirty-sixth and Thirty-seventh General Assemblies.<sup>381</sup>

For the purpose of insuring a higher standard of excellence and quality and a better market, a trade mark was adopted for butter manufactured in Iowa. And rules and regulations were provided for the use of the trade mark and to prevent its fraudulent use. Misbranding of several additional commodities was prohibited. The manufacture and sale of proprietary or patent medicines was regulated and a detailed law to prevent the manufacture and sale of adulterated or misbranded insecticides and fungicides within the State was placed upon the statute books.

As regards this class of legislation it appears that the legislature overlooked the necessity of providing adequate means for the enforcement of the law. The fact that a law is enacted and placed upon the statute books has little effect unless the department charged with its enforcement is provided with the necessary inspectors and other help. Legislation relative to pure food, misbranding, anti-adulteration, inspection, and sanitation are quite comprehensive: its weak feature is the lack of adequate means of enforcement.

An examination of these laws and the provisions for their enforcement shows that the State Dairy and Food Commissioner is responsible for the enforcement of the following laws: the dairy law; the pure food law; the weights and measures law; the agricultural seed law; the concentrated feeding-stuffs law; the condimental stock food law; the paint and linseed oil law; the turpentine law; the sanitary law; the cold storage law; the commercial fertilizer law; and the calcium carbide law.

In 1913 the commissioner had a staff of twenty-six assistants and clerks. The total expense of the office for the year ending November 1, 1913, was \$53,698.08; and the fees earned by the office for the same period amounted to \$36,504.52. It appears that the commissioner has been successful in the enforcement of the law in so far as he and his staff of assistants were able to do the work.<sup>382</sup>

*Laws for the Inspection and Regulation of Petroleum and its Products:*—The increased use of petroleum and its products and the abuses which crept into the manufacture and sale of such products have caused the enactment of a body of legislation for the purpose of protecting consumers. It appears that the legislature has had two purposes in view in placing these laws upon the statute books: first, to protect the consumers and the public against danger of fire and explosions from the use of inferior and unsafe oils; and second, to protect consumers and dealers from imposition through the sale to them of inferior approved oils for superior approved oils, that is, from imposition through misrepresentation.

The first law of this character was passed in 1872, and was entitled "An Act to Regulate the Manufacturing, Keeping, and Sale of certain Oils." This law prohibited the sale of petroleum oil inflammable at less than one hundred and ten degrees Fahrenheit. Any person or corporation violating this provision was liable to fine and imprisonment, and also for damages to any person injured because of the violation.<sup>383</sup>

In 1878 city councils or township trustees were authorized to appoint oil inspectors. Such inspectors were to make tests of oils offered for sale; and those oils which would not ignite or explode at a temperature of one hundred and fifty degrees Fahrenheit were to be approved and so marked. Oils that would ignite or explode at a temperature of less than one hundred and fifty degrees Fahrenheit were to be condemned and could not be sold for illuminating purposes. Inspectors were required to keep an accurate record of tests made, and penalties were provided for the misbranding by inspectors or for selling oils below standard. The act was compulsory upon the petition of five or more inhabitants of the city or town.<sup>384</sup>

A more comprehensive law was passed in 1884 which re-

pealed the act of 1878 and provided for a State-wide system of inspection. Under the provisions of this law the Governor was to appoint an inspector. It was made the duty of such inspector "to examine and test the quality of all such oils offered for sale by any manufacturer, vender, or dealer; and if upon such testing or examination the oils shall meet the requirements hereinafter specified, he shall fix his brand or device, '*Approved, flash test. . . . .degrees*' (inserting the number of degrees), with the date, over his official signature, upon the package, barrel or cask containing the same."<sup>385</sup>

The inspector, who was authorized to appoint a suitable number of deputies to aid him in his work, could enter upon the premises of manufacturers or others. He and his deputies were required to use the oil testers adopted and recommended by the Iowa State Board of Health, which board was also required to prepare rules and regulations concerning the manner of inspection in the use of the oil testers adopted. The inspectors were also required to take oaths and give bonds for the faithful performance of their duties.

A schedule of fees to be charged for inspection was provided by law. Records of all inspections were required to be kept and reported to the State Auditor biennially. Penalties were provided for false branding, for selling condemned oil, and for adulteration. Low ignition point oils were prohibited as freight, and other safeguards were provided to secure the purpose of the law.

The law of 1884 was amended from time to time. Tests were made more stringent; inspectors were required to turn fees into the State treasury and the schedule of fees was lowered; the salary of the inspectors was raised and made payable from the State treasury; the State Board of Health was given additional discretion in the regulation of inspection; and the provisions of the law were made to apply to naptha, benzine, and gasoline. Most of these

amendments were made for the purpose of improving the administration and enforcement of the law.<sup>386</sup>

The law was codified and rearranged in the *Code of 1897*, but no important changes or additions were made in its content. Slight amendments were also made during the next few years, the most important of which gave the State Board of Health power to approve or condemn for use in the State certain oil-burning lamps and apparatus.<sup>387</sup>

In 1904 the Thirtieth General Assembly repealed all the previous enactments on the subject and provided a more complete substitute, the main features of which are similar to the old law. Among the important changes made in the law the following should be mentioned: the Governor was to appoint inspectors, not exceeding fourteen in number, one of whom was designated chief inspector, who was given general supervision of the inspection service of the State; all differences arising in the inspection of oils were to be referred to the chief inspector; the inspectors must be residents of the State and not interested in the manufacture or sale of petroleum products; gasoline must be plainly marked and the sale of oils not inspected was forbidden; and the State Board of Health was given power to approve or disapprove lamps or apparatus used in burning the lighting products of petroleum. The power of removing inspectors was retained by the Governor.<sup>388</sup>

Additional precautions were added in the matter of labeling gasoline in 1906 and unfair commercial discrimination in the sale of petroleum products was prohibited under a severe penalty. This latter provision was aimed especially against discrimination between localities. The enforcement was placed in the hands of the Attorney General.<sup>389</sup>

Additional amendments were enacted in 1909 and 1911 — the law relating to the labeling and inspection of gasoline, benzine, or naphtha being made more stringent. In 1915 new provisions were enacted which will make for the better enforcement of the law.<sup>390</sup>



## LAWS TO PROMOTE BUSINESS

*Corporations:*—The main features of the general corporation laws of Iowa have been considered in a separate chapter. It was there pointed out that the Iowa corporation laws contain no new features; that the regulatory legislation has been neither extreme nor hostile; and that the laws are neither complete nor well-arranged. Further consideration of these laws will not be necessary in this connection.

*General Partnerships:*—There has been no legislation enacted in this State for the regulation of general partnerships; the Common Law rules are still followed. The characteristic elements of a general partnership are that it is an unincorporated association or legal relation; that it is created by the agreement of the interested parties and not by law; that it requires two or more competent parties; that it involves the establishment of a common stock, or other capital fund of some sort, from the united contributions of the interested parties; that it is formed for the transaction of some lawful business, trade, or occupation, which the partners are to own and carry on as principals; and that it has for its object the pecuniary gain of the members. A partnership is the result of a contract rather than a contract in itself—that is, it is the relation or association which the contract creates.<sup>391</sup>

*Limited Partnerships:*—The general partnership is very old and was the common form of business organization before the era of corporations. The first general incorporation law to be placed upon the statute books of Iowa was passed in 1847. But before the general incorporation law was passed, or, to be exact, at the first session of the Legislative Assembly of the Territory of Iowa, a law relating to limited partnerships was enacted.<sup>392</sup> This law authorized the formation of limited partnerships—a form of organ-

ization having some features in common with both general partnerships and ordinary business corporations. The Iowa law was an exact copy of an act passed a year previously by the Legislative Assembly of the Wisconsin Territory.<sup>393</sup>

The act of 1847 recognized the existence and legality of general partnerships, that is, it recognized a general partnership as a legal relation based upon a contract between two or more competent persons to unite their property, labor, or skill in the conduct of a lawful business as principals for their joint profit. The limited partnership provided for was a deviation from the old and common general partnership. It authorized limited partnerships for the transaction of agricultural, mercantile, mechanical, mining, or manufacturing business, to be formed by two or more persons upon the terms, with the rights and powers, and subject to the conditions and liabilities prescribed by the statute.

Limited partnerships were to consist of one or more general partners jointly and severally responsible as general partners, and of one or more special partners who were to contribute a specific sum in actual cash to the capital stock, and who were not liable for the debt of the partnership beyond the amount contributed by them to the capital. Only general partners were allowed to transact the business of the firm. Persons desirous of forming a limited partnership were required to make and severally sign a certificate containing the following information: the name of the firm; the nature of the business to be transacted; the names of all the general and special partners, specifying the members of each class, and noting their respective places of residence; the amount of capital contributed by each special partner; and the period for which the partnership was to endure, specifying the date of commencing and the date of termination.

This certificate was to be acknowledged and certified in the same manner as deeds were certified. It was then to be recorded in the office of the register of deeds for the county in which the business was located. Such records were to be recorded in a book kept for that purpose and were to be open to public inspection. Moreover, it was necessary for one or more of the general partners to file an affidavit stating that the sums specified in the certificate to have been contributed by the special partners to the capital stock had been actually paid in cash. Failure to comply with all the provisions relative to organization rendered all the interested parties liable as general partners.

The publication of the terms of the partnership was required. Subsequent alteration in the names of the partners, in the character of the business, in the capital or shares, or in any matter specified in the original certificate served to dissolve the partnership and rendered each partner individually liable as a general partner. Special partners were permitted to examine into the progress of the business and to advise as to its management, but they could neither transact any of the firm's business themselves nor be employed as agent or attorney for that purpose. Other sections of the law provided for the protection of creditors and prescribed the duties and liabilities of the partners in greater detail.<sup>394</sup>

A new law on the subject of limited partnerships, which contained some very interesting features, was enacted in 1846. According to its provisions limited partnerships were authorized for the transaction of any lawful business. The partners were allowed to make such regulations as they pleased, consistent with legal and honest purposes, for the management of the business; and they were authorized to render their interests in the association transferable. Under the provisions of this act the death of a partner did not terminate the partnership. The firm might also sue

and be sued in its partnership name, and the private property of the partners was not liable for the debts of the partnership, unless the association had not substantially complied with the law. The other features of the act were similar to those of the former law on the same subject which was not repealed.<sup>395</sup>

The Seventh General Assembly in 1858 enacted a new law relative to the formation of limited partnerships, the provisions of which are practically the same as those of the law of 1839. Although the methods and regulations pertaining to organization are the same, the purpose for which limited partnerships might be formed was made to include the transaction of any mercantile, mechanical, or manufacturing business; and such associations were prohibited from assigning property when insolvent and from giving a preference to any creditor. The former laws were not repealed.<sup>396</sup>

The limited partnership law as passed in 1858 still remains upon the statute books unchanged, except that the Ninth General Assembly in 1862 authorized limited partnerships to be formed for the transaction of any lawful business, thus removing the restrictions upon the purpose of such an association, and the Nineteenth and Thirtieth General Assemblies changed slightly the regulations in relation to the publication of the terms of the partnership.<sup>397</sup>

*Instruments of Credit:*—Instruments of credit and the rules of law which relate to them are of great practical importance. The law upon the subject is, however, very extensive and intricate — which makes the treatment of the subject in a limited space a difficult task. Omitting any definitions of terms and explanations of the law, the purpose of the present discussion will be to merely present the development connected with the changing of the law merchant as commonly understood and administered into the form of statute law.

Two acts relating to this subject were passed by the Legislative Assembly of the Territory of Iowa in January, 1839, one of which required the payment of protested foreign and inland bills of exchange with legal interest by the drawer or endorser.<sup>398</sup> The other law, which was entitled "An Act relative to promissory notes, bonds, due bills, and other instruments of writing",<sup>399</sup> declared that such instruments should be taken according to their purport. It regulated the assignment of such instruments, and described the procedure in case of action. It declared such instruments to be good only in case good or valuable consideration had been given. It defined and prohibited fraud. It defined tender and individual liability, and prescribed regulations concerning signatures and evidence. In 1843 the latter of these acts was repealed and a new act substituted therefor, which was simply a copy of the former act with an added section relating to the status of instruments executed by an agent in the name of the principal.<sup>400</sup>

The law was rewritten in the *Code of 1851*. Here the rules governing the negotiability of written instruments were more clearly set forth, as were those relating to the rights of the holder, the liabilities of the parties, the presentment for payment, and assignment. With the exception of slight amendments relative to days of grace and assignment the law remained unchanged until it was superseded by the Negotiable Instruments Law in 1902. The changes made by the two subsequent codes were in arrangement only.<sup>401</sup>

*The Negotiable Instruments Law:*—In 1882 the English Parliament enacted the Bills of Exchange Act, which was a partial codification of the existing law concerning bills, notes, and checks. There was need of a similar codification of the law in this country; and so in 1895 the "Commissioners for the Promotion of Uniformity of Legislation in

the United States'' arranged to have the law drafted in suitable form for enactment by the State legislatures. The law as drawn is known as the ''Negotiable Instruments Law'' and is based upon the English ''Bills of Exchange Act'', with such modifications and additions as were deemed advisable. It has since been adopted, with slight modifications in some instances, by more than forty States of the Union. ''It does not very materially change the law merchant as it has long been understood and administered, but it puts into the form of a statute what before rested for the most part in decisions and customs, while it seeks to produce uniformity upon a few points as to which the courts of the several states were not agreed.''<sup>402</sup>

The Uniform Negotiable Instruments Law was placed upon the statute books of Iowa by an act of the Twenty-ninth General Assembly in 1902. The act is long and involved. It is made up of seventeen parts and contains a total of one hundred and ninety-eight sections. Consequently it will not be possible in this connection to set forth the law with sufficient fullness of detail to enable the reader to thoroughly understand it.<sup>403</sup>

The object of the act, however, may be clearly stated. It was drafted for the purpose of codifying the law on the subject of negotiable instruments and to make it uniform throughout the country through its adoption by the legislatures of the several States. The purpose was to obliterate State lines with respect to the law governing negotiable paper, which is so important in the conduct of interstate commerce. It was an attempt to remove the confusion and uncertainty which was liable to arise from the conflict of statutes and judicial decisions in the different States, and to make plain the controlling rules of law.

*The Warehouse Receipts Law:*—A warehouse receipt is a simple contract between a warehouseman and the owner

of goods, by which the warehouseman agrees to store the goods and the owner to pay certain specified compensation for such storage. "At common law such a contract was not assignable, but the exigencies of trade and the protection required for *bona fide* purchasers have caused these warehouse receipts to be regarded as evidences or symbols of property and given to them the capacity of transferring the right of property."<sup>404</sup> Laws have been enacted from time to time until such receipts now have the quality of negotiability.

The first law to be passed relative to warehouse receipts in this State was enacted in 1862. Under this act as amended in 1864 the transfer of a warehouse receipt had the same effect as the transfer of the property itself. The main purpose of the law was to prevent fraud. It prohibited the issue of a receipt until the goods were actually delivered and in storage and required such goods to be held subject to the holder of the receipt. The issue of a second receipt until after the first was cancelled was prohibited. Nor was the warehouseman to remove or transfer the goods without the consent of the receipt-holder. Severe penalties were provided for violation of the law.<sup>405</sup>

The Twenty-first General Assembly in 1886 prescribed the conditions under which dealers in grain were to be allowed to issue elevator or warehouse receipts. Each dealer was required to file a declaration of his purpose with the recorder of deeds in the county where the business was to be transacted and to keep an exact record of sales and transfers. The receipts issued were declared to be negotiable.<sup>406</sup>

In 1892 an act was passed "authorizing corporations and persons engaged in the slaughtering and packing business to issue certificates and warehouse receipts on their own products, while in their custody and control." This law prescribed detailed regulations relative to the issue and transfer of such certificates and was quite similar in its

main features to the act of 1886. The *Code of 1897* collected and combined the laws along this line, but it made no important additions.<sup>407</sup>

No further legislation was enacted on this subject until 1907 when the Thirty-second General Assembly enacted into a statute of the State the Uniform Warehouse Receipts Act which had been drawn under the supervision of and recommended for passage by the Commissioners for the Promotion of Uniformity of Legislation in the United States. The act, which has now been adopted by thirty States and Territories, is entitled "An Act authorizing persons, firms or corporations engaged in the business of storing goods for profit, to issue warehouse receipts on the goods so stored; to regulate the issuance, negotiation and transfer of such receipts, and to provide punishment for violation of said regulations, and repealing section thirty-one hundred twenty-nine (3129) of the code."<sup>408</sup> It is a long act of sixty sections. It declares that warehouse receipts may be issued by any warehouseman. The form of the receipt and its essential terms are prescribed in detail. Several sections are devoted to each of the following points: the issuance of receipts; the negotiability and transfer of receipts; and punishment for violation of the law. The act was not to apply to receipts issued before it went into effect. It provided, moreover, that in "any case not provided for in this act, the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy, or other invalidating cause, shall govern."<sup>409</sup>

The general effect of the act was to make the Iowa law uniform with that of the other States which should adopt it, and to make clear the conditions under which warehouse receipts were to be considered as negotiable instruments.



*The Bills of Lading Law:*—The Uniform Bills of Lading Act, drafted by Professor Williston and approved by the Commissioners on Uniform State Laws in 1909, was enacted into law by the Thirty-fourth General Assembly of Iowa in 1911. This elaborate statute containing fifty-seven sections defines and describes negotiable and non-negotiable bills of lading. It provides for the issuance, endorsement, and transfer of such bills. It defines also the rights and duties of common carriers and of all persons issuing and receiving such bills of lading.<sup>410</sup>

Mr. L. J. Tompkins says, concerning this class of commercial paper, that “strictly speaking, a bill of lading is an ordinary contract, which by the early law was not assignable, but the exigencies of trade, coupled with the principles which protect innocent purchasers for value who had bought this evidence or symbol of property, gave to it the capacity of transferring the right of property.”<sup>411</sup>

The Uniform Bills of Lading Law has now been adopted by twelve of the States and Territories, and will probably be adopted by others.<sup>412</sup>

The three acts just considered are important. Credit is to-day the medium of exchange by which ninety-five per cent of the business of the world is transacted. That the law governing all instruments of credit should be universal throughout the commercial world would seem to be apparent. These acts, therefore, adopt the mercantile theory of credit and give negotiability to bills, drafts, notes, checks, warehouse receipts, and bills of lading when to “order”. The “order bill of lading” plays a peculiarly important part in American domestic and foreign commerce — being in the best sense a “commodity currency”, because usually accompanied by a draft wherein is expressed a unit of value.

“These commercial acts”, says one writer, “have been

construed in harmony with actual business usages and customs where such usages and customs rest on a sound economic principle and are not contrary to ethics underlying all American jurisprudence. . . .

“They wisely do not attempt a complete codification of the law upon each subject to which they pertain, but give room for the growth of new uses and customs by providing that ‘in cases not provided for in this act the rules of law and equity including the law merchant . . . shall govern’.”<sup>413</sup>

*Trade Mark Laws:*—The importance and use of trade marks have increased greatly during the last quarter of a century and some laws have been developed for their protection. The first Iowa law of this nature is found in the *Code of 1851*, which prohibited the counterfeiting of the mark of another and provided a penalty for the use, with intent to defraud, of any box or container marked or branded by another.<sup>414</sup>

In 1892 a more comprehensive act was passed to protect persons, associations and unions of workingmen, and others in their labels, trade marks, and forms of advertising. This law provided for the registration of trade marks with the Secretary of State, and prohibited the unauthorized use of registered marks under penalty.<sup>415</sup> Two years later persons engaged in bottling beverages were authorized to adopt trade marks and have them registered and protected.<sup>416</sup>

In 1911 the Thirty-fourth General Assembly provided for the adoption of a trade mark for Iowa manufactured products, and authorized the organization of the Iowa State Manufacturers' Association. A board of awards was to be appointed by the association for the purpose of establishing uniform regulations and to grant to Iowa manufacturers conforming to such regulations the right to use the label or

trade mark adopted. The board was to make requirements as to the good quality of products, both as to materials and workmanship and to fix a charge to be paid by the manufacturer for the use of the label. The declared purpose of the act was "to make the said label or trade-mark stand for Iowa made goods, and also of goods of quality and merit." In 1915 a trade mark was adopted for Iowa dairy products.<sup>417</sup>

#### LAWS TO PROTECT CREDITORS

Legislation of this type contains no new principle: it is simply a codification of the old Common Law rules. It is true, however, that in the process of codification the rules themselves have undergone some change. The movement is toward better protection for laborers and other people of small means. Two groups of laws will be treated in this connection: laws relating to mechanics' liens and those relating to assignments for the benefit of creditors.

*Mechanics' Liens:*—A mechanics' lien is a lien which operates by statute to secure the payments due to persons who do work or furnish materials in the construction of buildings or other improvements. Such a lien attaches not only to the building or improvement itself, but also to the land upon which it is situated.<sup>418</sup> Legislation upon this subject was begun when the Iowa country was a part of Michigan Territory. It continued to be enacted down through the period when Iowa was a part of Wisconsin Territory.<sup>419</sup>

Very soon after the Territory of Iowa was created, however, the First Legislative Assembly passed an act that superseded the former laws. This act, which was approved on December 17, 1838, secured payment for work done or material furnished under contract with the owner of any real estate "for the erecting or repairing any house, or other building, mill, or machinery of any description what-

ever, or their appurtenances, or for furnishing labor or materials for the purposes aforesaid", by a lien upon the building and its appurtenances and upon the lot or tract of land upon which the building was erected. Moreover, the benefits of the act were extended to persons employed on mineral lands. An amendment in 1840 changed the procedure in enforcing the lien; and in 1843 the laws, with some slight changes, were combined into one statute.<sup>420</sup>

The law of mechanics' liens as it appeared in the *Code of 1851* contained some additions and changes.<sup>421</sup> Thus under the provisions of this code every person who had furnished, under contract with the owner of any land, work or material used thereon was given a lien upon the land and the building for the amount due him "against all persons except incumbrancers by judgment rendered, and by instrument recorded, before the commencement of the work or the furnishing of the material." The terms "owner" and "building" were defined. Sub-contractors were given a lien against the principal, to be enforced by the garnishment of the principal's claims in the hands of the owner of the improved land. The real estate subject to lien was limited to one-half acre in town property and to two acres in any case. The taking of collateral security on the same contract forfeited all rights to a mechanics' lien. No mention was made of the former miner's lien, but the benefits of the law were extended to persons furnishing labor or material for the construction of any bridge, or railroad, or other work of internal improvement. The judicial procedure for enforcing the lien was also rewritten and made more explicit.

The law as it was written in the *Code of 1851* did not long remain unchanged. Amendments were made in 1857 and 1858 which related to the filing of claims for liens and to the extension of the benefits of the law to persons furnishing materials to contractors. In 1860 the law was rewritten so that its benefits would extend to every person who should

perform work or furnish material for any building or other improvement upon any land, by contract with the owner, his agent, or trustee, contractor, or sub-contractor. Sub-contractors and others who did not have contracts directly with the owner of the land, his agent, or trustee were required, however, to give notice to the owner of their intention to furnish labor or material. Failure to give such notice did not forfeit the lien, but it operated to make it less certain. Liens were also made transferable and were exempted from execution when for labor only. The acreage limitation was removed and provision made to insure the lien in case the person making an improvement was a lease-holder and not the owner of the land improved.<sup>422</sup>

During the period from 1860 to 1874 amendatory acts were passed relating to the filing of claims, the service of notice, the time and manner of beginning action, the limit of liability, and the better security of the rights of the employees of sub-contractors.<sup>423</sup>

In 1876 all the existing statutes relating to mechanics' liens were repealed and a new law enacted, which was for the most part a collection and rearrangement of the previous law and its several amendments. There have been additions to the law since that time, but few important alterations have been made. Further protection was given to sub-contractors in 1884. The provision for the protection of miners was revived in 1890; and persons doing grading work on land or lots were given the benefit of the law in 1894. No changes of importance appear in the *Code of 1897*. The liability of the owner to the original contractor and to sub-contractors was more clearly defined, and the claims of sub-contractors for the construction of drainage ditches were secured in 1913. And in 1915 a slight change was made in relation to the serving of notice by a sub-contractor.<sup>424</sup>

The mechanics' lien is allowed only for buildings, erec-

tions, or other improvements upon land which are of such a nature as to become a part of or an addition to the land. A lien will operate only for work done or materials furnished by virtue of a contract, express or implied. The right to a mechanics' lien extends to every person who brings himself within the provisions of the statute. Claims for liens must be filed within a certain period of time in order to receive a preferred claim. When properly filed a mechanics' lien is a preferred claim. As between persons claiming mechanics' liens upon the same property the priority is determined by the order in which the claims were filed. In order to enforce a mechanics' lien action must be brought within two years from the expiration of the period legally permitted for filing claims.<sup>425</sup>

"Builders and material men belong to a class of creditors whose rights accrue from time to time and who cannot well avail themselves of the ordinary remedies for the collection of their claims. The preference given them rests on equitable grounds."<sup>426</sup>

*Assignments for the Benefit of Creditors:*—It is not the purpose to treat of assignments in general in this connection but only of assignments for the benefit of creditors, that is, the assignment or transfer of property to a trustee who converts the property into money and pays the debts of the assignor. Any person, partnership, or corporation has a legal right to make an assignment of property. This action is not usual, however, except in case of insolvency. A solvent person may assign a part or all of his property for the benefit of his creditors, and an insolvent person may so assign a part of his property. But if an insolvent person attempts to assign all of his property for the benefit of his creditors the law declares what must be done in order to make such an assignment valid, and it controls the assignee in the sale of the property and in the distribution of the proceeds among the creditors.<sup>427</sup>

The first legislation on this subject appears in the law as written in the *Code of 1851*, which permitted no general assignment of property by an insolvent or any person contemplating insolvency unless such assignment was made for the benefit of all the creditors in proportion to the amount of their respective claims. The assent of the creditors in case of an unconditional assignment for their benefit was declared to be presumed.<sup>428</sup>

An extensive addition was made to the above provisions by an act passed in 1857. This law, which remains almost unchanged upon the statute books, defined the procedure in case of assignment. Provision was made for an inventory of the debtor's property, for notice to be given to creditors, for the filing of the inventory with the clerk of the district court, for the filing of the claims of creditors, for exceptions, and for the division of the assets among the creditors. The district court was authorized to supervise the assignor and assignee. Additional inventories of property were permitted. Debts not yet due, as well as those due, were to be given consideration. The assignee was given full power to dispose of all the property subject to the direction of the district court. Finally, provision was made for the appointment of a new assignee in case any assignee should die before the complete execution of his trust.<sup>429</sup>

The few changes that have been made in the law may be briefly indicated. Taxes were declared to have a prior right to other claims in 1876. Debts due for personal service were given a preferred claim in 1884. In 1886 provision was made for the removal of an assignee upon application of two-thirds of the creditors and for the appointment of one suitable to them. The time for the division of the property was also limited. In 1890 claims for wages owing for labor were given priority over other claims not having special preferment.<sup>430</sup> An important measure of 1906 provides that no sale or assignment of wages by the head of a

family "shall be of any validity whatever unless the same be evidenced by a written instrument and if married unless the husband and wife, sign and acknowledge the same joint instrument before an officer authorized to take acknowledgments."<sup>431</sup>

#### MISCELLANEOUS LAWS RELATING TO TRADE AND COMMERCE

*Laws relating to Money of Account and Interest:*—The rate of interest that could be legally collected was first determined by an act passed in 1838. This law permitted interest at the rate of six per cent on all debts after they were due, and allowed a rate not to exceed twenty per cent on specific contract. Usury was prohibited and provision was made for punishing any violation of the law. By an act of 1843 the maximum rate allowable in contracts was reduced to ten per cent, and provision was made under which persons paying more could recover.<sup>432</sup>

The *Code of 1851* declared the money of account of this State to be the dollar, the cent, and the mill. The legal rate of six per cent was continued, but no maximum was set for written contracts except that a higher rate than ten per cent could not be recovered by judgment. The Fourth General Assembly rewrote the law regulating interest on money. The same rates were retained as had been previously allowable, but several additional articles attempted to prohibit unlawful interest.<sup>433</sup>

The maximum legal rate was reduced to eight per cent in 1890; and no further changes of importance were made in the law until in 1915 when the so-called loan shark bill was passed. This law attempts to prohibit any one from charging a greater rate of interest than two per cent per month, but it does not authorize a higher rate than is now provided by law.<sup>434</sup> The law is not clear and has not yet been interpreted by the courts, so that it is not possible to know whether it will accomplish the purpose for which it was enacted.



*Tender*:—The law defining and regulating tender remains in substance as it appeared in the *Code of 1851*, declaring that an offer made in writing and not accepted is the equivalent to actual tender. Inspection must be allowed on request, and the receiver must make his objections, if at all, at the time the tender is made. The person making the tender may demand and receive a receipt before making the actual transfer.<sup>435</sup>

*Sureties*:—The law relating to sureties also remains upon the statute books just as it was adopted in the *Code of 1851*. Any person bound as surety may require the creditors of his principal to sue or allow the surety to sue when it appears that the principal may leave the State without discharging his contract. Upon a creditor's refusal to sue or allow the surety to do so the surety is discharged. Upon suit by a surety he is required to pay costs of the suit. The provisions of the law extend to the executor of a deceased surety, and to the executor, endorsee, and assignee of the creditor, but not to official bonds of public officers, executors, or guardians.<sup>436</sup>

*Miscellaneous*:—Fragmentary acts relating to different phases of trade and commerce have been passed from time to time. Much of this legislation has been of only minor importance and there has been no plan or system in its enactment. It has been of some importance, however, and some idea of its extent and variety should be indicated in this connection.

The State legislature has passed laws upon different occasions for the prevention of unfair discrimination in commerce and trade, for the prevention of pools and trusts, and for the regulation of the sale and transfer of stored grain.<sup>437</sup> These laws have been noted at greater length in other connections.

One of the most important recent measures passed which affects trade and commerce is the Bulk Sales Law of 1911 — rewritten in 1917 — which prohibits any person from selling his stock of merchandise in bulk without giving proper notice of such intention to his creditors.<sup>438</sup>

Cities have been given broad powers in establishing and regulating markets within their limits. Regulations have been prescribed from time to time in relation to peddlers and peddling, and to auctioneers and auctioneering. Mills and millers have also been regulated in the same manner.<sup>439</sup>

In memorials and joint resolutions to Congress the State legislature has reflected the sentiment of the people of the State toward certain economic policies of the National government. Thus Congress has been asked to repeal the duty on sugar and molasses. It has been asked for free lumber and jute and sisal grass, for a lower duty on steel and wire, and for the defeat of the Wilson Tariff Bill. Another group of joint resolutions relates to patents. Congress has been urged not to extend the patents on certain kinds of machinery and to amend the patent laws in such a manner as to remove the barbed-wire patent extortion.<sup>440</sup>

Other joint resolutions urged Congress to establish custom houses in Iowa, to reduce the rate of ocean postage, to regulate interstate commerce and to establish an interstate commerce commission, to increase the amount of currency, and to amend the bankrupt law. It is also of interest to note that during the period of settlement there were no fewer than eighty-three memorials and joint resolutions to Congress in relation to increased mail facilities in Iowa.<sup>441</sup>

## XI

### LABOR LEGISLATION<sup>442</sup>

The term labor legislation as used in this connection includes all statutory provisions enacted for the purpose of regulating the conditions of employment and for the protection of wage-earners from exploitation. The need of such legislation is recognized wherever the capitalistic system of production is in vogue. Iowa is still a predominantly agricultural State, and the capitalistic system is yet in an early stage of development. This means that the greater part of the laboring population consists of independent producers instead of wage-laborers. It is not surprising, therefore, that labor legislation in Iowa has not had a rapid development.

#### WAGE LEGISLATION

Every laborer should be assured of the prompt and full payment of his wages; and he should be protected against imposition and oppression by unscrupulous creditors. Wage laws seek to secure these rights to the laborer, and the payment of wages is secured by stronger legal guarantees than are ordinary debts. Such laws seek also to enable the laborer to maintain a cash system, and to shield him from the extortion of the money-lender.

Legislation on the subject of mechanics' liens began before Iowa was made a separate Territory and has continued down to the present day. The development of this legislation has been treated in another connection and need not be discussed here.<sup>443</sup> It is proper to note, however, that these laws have been quite effective in securing the payment of wages to the laborer.

Preference is given to laborers for claims for wages in the settlement of the estates of insolvent debtors. Moreover, wages have been exempt from attachment since 1851. Frequent attempts have been made to have such exemption removed, but without success. Laws have long been on the statute books to protect the rights of minors and women in the matter of wages. In 1915 a law was enacted which attempts to prevent extortion by loan sharks, but its provisions are not clearly stated and there is some doubt as to their meaning. The law aims to prohibit anyone from charging a greater interest rate than two per cent a month, but it does not authorize a higher rate than is now provided by law.<sup>444</sup>

After the amount and security of wages, the manner and frequency of their payment are of great importance to the wage-earner. It was the common practice for mine operators and owners to pay miners' wages in truck and rent until 1888, when a law was passed which requires employers to pay in lawful money the wages of workmen employed in mines. Since 1894 miners must be paid semi-monthly. In 1915 an act was passed which requires the semi-monthly payment of wages to railroad employees. Finally, the Thirty-fifth General Assembly established a minimum wage for public school teachers.<sup>445</sup>

#### CONVICT LABOR LEGISLATION

Steps were taken by the Territory of Michigan to provide labor for convicts as early as 1819. The law adopted at that time was, with slight change, in force when Iowa became a separate Territory in 1838.<sup>446</sup> The First Legislative Assembly of the new Territory passed an act providing for the erection of a penitentiary. The prisoners were to be employed in the construction of the buildings and were to be later employed in the manufacture of articles for the market under the direction of the warden.<sup>447</sup>

The warden of the penitentiary was authorized to hire out the convicts for work in the town of Fort Madison in 1841.<sup>448</sup> At that time it was the general belief that a prison should be self-sustaining. Since the Iowa penitentiary was a financial burden and not self-supporting it was leased to a private person in 1846 for a term of three years.<sup>449</sup> Upon the expiration of this lease, however, the penitentiary was again placed under the control of public officers who directed the employment of the prisoners.<sup>450</sup>

In 1854 the State adopted the contract system of disposing of the labor of its prisoners.<sup>451</sup> This system was retained until 1915, when provision was made for the employment of prisoners only on State account after the then existing contracts had been completed.<sup>452</sup> The contract system and the public account system have long been used in this State. Under the contract system the convicts were hired out to different manufacturing concerns, but the State was never able to get as much for the labor of convicts as it cost to maintain them. Moreover, the convicts employed under contract were rarely taught any useful trade. The contract system was opposed for many years by labor organizations and by the class of citizens who hope to see the prisoners reformed. It was never satisfactory and was finally discarded in 1915.

The public account plan has been used to some extent and it seems to be a better and more just system. The movement toward road working, the construction of public works, and the manufacture of articles needed by the inmates of the various charitable and correctional institutions supported by the State is being received with more favor, but the question of the proper disposal of prison labor remains unsolved in this State.

## MINE LABOR LAWS

Coal mining is the most important mining industry in the State. The annual output of this product is about 7,000,000 tons, and the industry gives employment to approximately 17,000 men.<sup>453</sup> The value of the coal produced in 1912 was a little more than \$13,000,000; while that of all the other mineral products of the State for the same year was about \$10,000,000.<sup>454</sup>

Except for the miners' lien law, which was in force from 1838 to 1851,<sup>455</sup> mine labor legislation did not begin in Iowa until 1872. Since that time, however, mine labor laws have grown in volume and importance until they now form the largest and most complete body of laws applicable to any one group of laborers in this State. Mining is an extra-hazardous occupation. It affords, moreover, peculiar opportunities for the exploitation of the laborers engaged therein. Accordingly, two groups of mine labor laws have been developed. One group seeks to protect the lives and limbs of miners; the other group seeks to secure to miners the full control of their wages.<sup>456</sup>

The law of 1872 was a brief act, relating only to the inspection of mines by county authority and to the liability of mine-owners for injuries to employees. Two years later a substitute for this act was passed. It was longer than the first act and contained many additional provisions. It retained the system of county inspection, but seems never to have been enforced.<sup>457</sup>

A system of State inspection of mines was inaugurated in 1880, when the earlier county system was abandoned.<sup>458</sup> This act provided for a State Mine Inspector to be appointed by the Governor and Senate. The inspector so appointed was to have "a theoretical and practical knowledge of the different systems of working and ventilating coal mines, and of the nature and properties of the noxious and poisonous gases of mines, and of mining engineering."

The inspector was to be appointed for a period of two years at a salary of \$1500 a year. He must not while in office have an interest in any mine. He must examine all the mines of the State as often as his duties would permit; and he could inspect any mine and its works and machinery at all reasonable times. He was provided with an office and furnished with all necessary instruments. He must enforce the law and make annual reports to the Governor. Finally, he was subject to removal for malfeasance in office or gross neglect of duty.

Mine-owners were required to furnish means for inspection and to report any loss of life in their mines. They must make accurate maps of the working of each mine and provide two separate outlets in every mine in which more than fifteen persons were employed. They must provide speaking tubes and safety gates in all shafts and brakes and dogs on drums and cars, and employ only competent engineers. They were also required to supply timber for props where necessary. All of the mechanical appliances of the mine were subject to the approval of the inspector.

The law of 1874 had prohibited the employment in mines of boys under ten years of age and of all females. The age limit was raised to twelve years by the act of 1880.

Miners were given the right to maintain a check-weighman. In case any mine-owner failed to comply with the provisions of the act he could be enjoined from operating his mine. It was also made a misdemeanor for any unauthorized person to injure or interfere in any way with any of the safety appliances or machinery. The provisions of the law were not applicable to mines in which not more than fifteen persons were employed.

The act of 1880 was repealed in 1884 and in its place there was enacted a substitute law which embraced all the provisions of the former law with several additions. The inspector's salary was increased and more detailed provisions

were made for escape shafts and safety appliances. Only mines operated by slopes or drift openings where not more than five persons were employed were exempt from the provisions of the act.<sup>459</sup>

The one inspector could not visit the five hundred coal mines of the State often enough to secure compliance with the law; and so in 1885 Inspector Wilson recommended that provision be made for one chief mine inspector and two assistants.<sup>460</sup> Such a plan would have given unity to the work of mine inspection, but it was not adopted. Instead, provision was made for the appointment of three inspectors of equal rank, to be assigned to districts by the Governor.<sup>461</sup> The qualifications and duties of the inspectors remained as under the law of 1880.

In 1888 an attempt was made to put the office of mine inspector on a merit basis by the creation of a permanent board of examiners. Candidates for the office were to be examined by this board, and appointment must be made from among persons holding certificates of competency from the board.<sup>462</sup> The jurisdiction of the board of examiners was extended in 1900 to the examination of mine foremen, pit bosses, and hoisting engineers working in mines whose daily output was above twenty-five tons, and such workmen were required to possess certificates of competency before they could be employed. The qualifications of the members of the board were, moreover, made more stringent; and in 1911 the board was given power to revoke the certificates of mine employers who refuse to obey the orders of the mine inspector.<sup>463</sup>

The salary of the State Mine Inspectors has been increased from time to time; they now receive \$1800 a year, with a traveling allowance of \$750 and fifteen dollars a month for office expenses. Mine inspectors were at first appointed for a term of two years. In 1911 the term was changed to three years. Two years later the period of in-



cumbency was made six years, but in 1915 the term was reduced to four years. Inspectors are removable by the Governor upon the recommendation of the board of examiners.<sup>464</sup>

Since 1902 the inspectors have been required to inspect, at least once in six months, every mine having a daily output of fifty tons or more of coal; and since that time their duties have been extended to include the determination of the fitness of shot examiners, the enforcement of the child labor laws in mines, and the inspection of gypsum mines.<sup>465</sup> In addition to the changes noted several fragmentary acts were passed during the period from 1888 to 1911. These acts, among other things, prohibited the sale of impure oil in coal mines. They changed and amended the safety provisions relative to air currents and the storage of powder in mines and the provisions relative to the competency of employees in mines.<sup>466</sup>

A very important group of laws of this same period attempted to prevent the exploitation of miners. Thus miners were given the benefit of the mechanics' lien law in 1890. The right of miners to appoint a check-weighman, who is paid by themselves and who has power to examine the scales and apparatus used for weighing coal and to see each miner's coal weighed and recorded, was first secured to the miners in 1880. Amendatory laws required the use of standard scales and their inspection by the mine inspectors. Screen laws have been enacted, but they are not satisfactory to the miners. A truck law was enacted in 1888 which aims to free the miner from the obligation to spend his money in a company store. In 1894 a law was passed which requires the payment of miners every two weeks and a later amendment prohibits the withholding of wages beyond a short period after they are earned.<sup>467</sup>

In 1911 the Thirty-fourth General Assembly passed a more comprehensive act pertaining to mines and mining

than had before been enacted. This statute, which still constitutes the law in this State, is defined in the title as "relating to mines and mining, safety appliances, means, methods and equipments thereof, the appointment of mine inspectors, defining their powers and duties, requiring surveys of mines and records to be kept thereof, requiring escape and air shafts and equipments and location thereof, fire proof buildings for boiler and engine rooms, safe and convenient traveling ways and equipments thereof, the amount of ventilation, stoppings and breaks-through, means of communication from top to bottom of shaft, slope or drift, and from the bottom thereof to the working parts and providing safety equipments for shafts, slopes or drifts and fixing the age within which boys may work in the mine, and providing for the safety of employes where explosives are used, the location of stables, gasoline engines and pumps, and the revocation of certificates of mine foreman in certain cases, defining the duties of mine foreman and definition of mine foreman, the duties of workmen in mines and mining and defining the power and duties of mine owners, lessees, operator and person in charge, the character and kind of illuminating oils and other substances and providing penalties." <sup>468</sup>

The portion of the title of the law just quoted indicates something of the inclusiveness of the statute. Many of the provisions of the old law were retained without change. Immediate reports of accidents were required; <sup>469</sup> more elaborate provisions were made in regard to maps of mines; the provisions regulating escapes were prescribed in more detail and made more effective; the storing of explosives in mines was more stringently regulated; a more elaborate system of communication was required to be installed in mines; more stringent regulations were prescribed in relation to the hoisting machinery and the safety of miners being taken into or out of the mines; and inspectors were

given broader powers in requiring safety appliances. The location and construction of boiler and engine rooms were regulated; more careful regulation of blasting was provided; and other protective features were included. Penalties were prescribed for the violation of the different provisions of the law.<sup>470</sup>

Practically all the mine labor legislation enacted previous to 1913 was applicable only to coal mines. In 1913 a regulatory law applicable to gypsum mines was enacted. This law is similar to the laws relating to coal mines. Indeed, it contains no new features and is not nearly so elaborate.<sup>471</sup>

#### RAILWAY LABOR LEGISLATION

There has been a fearful loss of life and limb in the construction and operation of railroads in this as well as in other States. The heaviest loss has fallen upon railroad employees, and especially upon train crews. It would appear that legislation for the protection of the employees of railroads should be directed toward securing greater safety in the operation of trains. "Iowa laws looking to this end are those requiring automatic couplers and train brakes, regulating the height of overhead obstructions, limiting the hours of continuous employment for certain classes of railway operatives, and providing for the investigation and report of accidents on railways."<sup>472</sup> As early as 1851 the benefits of the mechanics' lien laws were extended to railway employees and they still enjoy those benefits.<sup>473</sup>

To the use of the old style link and pin couplers was due thousands of injuries and deaths to railway employees. Automatic safety couplers were invented before 1885; but it was not until 1890 that automatic couplers and power brakes were required by law in this State to be placed on cars and engines. And then it took ten years to get all the rolling stock equipped.<sup>474</sup>

Overhead obstructions were for many years a source of

danger to trainmen and many accidents occurred. The extension of telephone lines increased this danger, but no legislative action was taken to prevent such obstructions until 1907. In that year the State Board of Railroad Commissioners was given general supervision over all wires crossing railroad tracks within the State. The commissioners were required to prescribe rules and regulations for the stringing of such wires, to examine those already strung, and to fix a minimum height, at least twenty-two feet above the top of the rails, at which wires may lawfully be placed above railroad tracks.<sup>475</sup>

In 1907 the General Assembly recognized the evil effect of excessive hours of labor for railway trainmen and made an attempt to correct it by legislation. A law was then passed which forbids any employee engaged in the operation of trains to remain on duty more than sixteen consecutive hours, or to perform any further service without having had at least ten hours for rest. It also prohibits any employee from being on duty more than sixteen hours in any consecutive twenty-four hours. These provisions do not apply, however, to employees of sleeping car companies or to trainmen engaged in protecting life and property in case of accident; nor do they prevent trainmen from taking passenger trains or freight trains loaded exclusively with live stock or perishable freight to the nearest division point of the road. The enforcement of this law is placed in the hands of the Railroad Commissioners.<sup>476</sup>

By an act of 1907 the Railroad Commissioners were required to investigate accidents on railroads. Other laws of a regulatory character require special appliances on switch engines, special construction of caboose cars, frosted glass in locomotive cabs, and the semi-monthly payment of wages to all employees.<sup>477</sup> Street railway companies are required to enclose the vestibules on cars so as to protect the operators. They are also required to equip their cars with power brakes and devices for sanding the rails.<sup>478</sup>

## THE BUREAU OF LABOR STATISTICS

The act creating the Iowa Bureau of Labor Statistics was passed in 1884. It has been converted into an effective piece of administrative machinery by the extension of its jurisdiction beyond the mere compilation of statistics. The Bureau has been developed in the following manner. During the first ten years of its existence the personnel consisted only of the commissioner, appointed by the Governor with the approval of the Executive Council for a term of two years. Clerical assistance was provided in 1894. Two years later the office of deputy commissioner was created. In 1904 a factory inspector and an office clerk were added to the force. One additional factory inspector was provided for by the Thirty-third General Assembly in 1909. The law as rewritten in 1913 provides for three factory inspectors, one of whom must be a woman.<sup>479</sup>

The support of the Bureau has never been liberal. The commissioner's salary remained at \$1500 a year for twenty-three years. At present the commissioner receives \$1800 a year, the deputy \$1500 a year, and the factory inspectors \$100 per month; while the amount available for traveling expenses is now \$4000 per year. The State maintains an office for the commissioner and furnishes a clerk at a salary of \$1000 a year.<sup>480</sup> The law creating the Bureau defined the scope of its work as follows:<sup>481</sup>

The duties of said commissioner shall be to collect, assort, systematize and present in biennial reports . . . . statistical details relating to all departments of labor in the state, especially in its relations to the commercial, social, educational and sanitary conditions of the laboring classes, and to the permanent prosperity of the mechanical, manufacturing and productive industries of the state, and shall as fully as practicable collect such information and reliable reports from each county in the state the amount and condition of the mechanical and manufacturing interests, the value and location of the various manufacturing and coal productions of the

state, also sites offering natural or acquired advantages for the profitable location and operation of different branches of industry; he shall by correspondence with interested parties in other parts of the United States impart to them such information as may tend to induce the location of mechanical and producing plants within the state, together with such other information as shall tend to increase the productions, and consequent employment of producers; and in said biennial report he shall give a statement of the business of the bureau since the last regular report, and shall compile and publish therein such information as may be considered of value to the industrial interests of the state, the number of laborers and mechanics employed, the number of apprentices in each trade, with the nativity of such laborers, mechanics and apprentices' wages earned, the savings from the same, with age and sex of laborers employed, the number and character of accidents, the sanitary condition of institutions where labor is employed, the restrictions if any which are put upon apprentices when indentured, the proportion of married laborers and mechanics who live in rented houses, with the average annual rental and the value of property owned by laborers and mechanics; and he shall include in such report what progress has been made with schools now in operation for the instruction of students in the mechanic arts and what systems have been found most practical with details thereof.

The law required the Bureau to collect much information which can be secured only from employers of labor, but during the first twelve years of its existence the Bureau had no authority to compel any one to make reports. An extensive amendment was passed in 1896 to remedy this and other defects of the law. The amended law made compulsory the giving of required information to the commissioner and authorized him to administer oaths and subpoena witnesses. A penalty was also prescribed for refusal to give information.<sup>482</sup>

The scope of the Bureau's work has been extended from time to time beyond the mere compilation of statistics. Since 1902 the commissioner has been required to include in

his report "the means of escape from, and the protection of life and health in factories, the employment of children, the number of hours of labor exacted from them and from women."<sup>483</sup> Another act of the same General Assembly charged the commissioner and his assistants with the work of factory inspection and the enforcement of the factory law. They were charged with the enforcement of the fire escape law in 1904, with the enforcement of the child labor law in 1906, and with the supervision of private employment agencies in 1907.<sup>484</sup>

In 1913 the commissioner was authorized to inspect any place of employment at his own discretion, without a complaint being entered or a request being made, and the prescribed forms upon which reports were to be made by employers to the commissioner were abolished. Another provision of the same act requires a record to be kept and a report to be made to the commissioner within forty-eight hours of the occurrence of every accident causing death or disability for more than four days, in industries other than mines under the supervision of the State mine inspector. Further slight changes were made in the duties of the commissioner in 1915 relative to the information to be included in his reports; and some alterations were made in the definition of certain terms.<sup>485</sup>

Finally, by an act of the Thirty-sixth General Assembly the Commissioner of the Bureau of Labor Statistics was required to establish a department in his office to be called the State Free Employment Bureau. Provision was made for the necessary help and the expenses of administration. The purpose of the new department is to bring the unemployed in touch with those desiring to employ labor. The work is to be carried on by correspondence and no fees are to be charged for the services of the bureau.<sup>486</sup> It is yet too soon to determine the success or failure of the new department.

## FACTORY LABOR LAWS

Factory legislation in Iowa is very recent, most of the existing laws having been enacted since 1900. But rapid progress has been made during this period. The Commissioner of the Bureau of Labor Statistics made, in 1900, the first extensive investigation of the conditions of labor in Iowa factories. About three-fourths of the factories investigated fell below a reasonable standard of safety and comfort. To remedy some of the evils revealed in the commissioner's report Iowa's first factory law was passed in 1902.<sup>487</sup>

This law, which was entitled "An Act to provide for the safety and comfort of laborers and other persons assembled in factories and buildings",<sup>488</sup> required every establishment in which five or more persons were employed to provide adequate water-closet facilities, safeguards for machinery, and appliances to carry away dust. The enforcement of the law was placed in charge of the Commissioner of Labor. More comprehensive laws relating to water-closets, washing facilities, and safeguards for machinery were passed in 1911.<sup>489</sup> Two laws have been placed on the statute books which relate to keeping steam boilers in good condition, but it appears that neither of the acts has ever been enforced. Some system of inspection should be required for such machinery.<sup>490</sup>

There were no legal requirements relating to fire escapes on buildings in this State until 1882, when incorporated cities and towns were given power to require and regulate the construction of fire escapes on buildings. In 1888 the board of public works in any city of thirty thousand was given the same authority, but it seems that these powers were not exercised.<sup>491</sup> An attempt was made in 1902 to require fire escapes on buildings of three or more stories in height in which more than twenty persons were employed. The enforcement of this act was left in the hands of local authorities and little was accomplished.<sup>492</sup>



The law was made more comprehensive in 1904 and the Commissioner of Labor was charged with its enforcement and general compliance with the provisions of the law was secured.<sup>493</sup>

The law was rewritten and made much more complete in 1915. It now prescribes in detail the number of fire escapes required on buildings of various capacities; it requires that they be located in certain positions and constructed of certain prescribed materials. Buildings are classified and provisions are defined for each class. Doors must open outward and be unfastened; and elaborate provisions are made for the enforcement of the law.<sup>494</sup>

#### CHILD LABOR LEGISLATION .

Iowa has been slow to act in the matter of child labor legislation. The State is predominantly agricultural; the cities are comparatively small; and the need for such legislation has not been keenly felt. It is not surprising, therefore, that child labor and school attendance laws were not developed before the beginning of the twentieth century.

The only child labor legislation enacted before 1900 had reference to the employment of children in mines. An act passed in 1874 provided that "no young person under ten years of age, or female of any age, shall be permitted to enter any mine to work therein". In 1880 the age limit was raised to twelve and in 1906 to fourteen years.<sup>495</sup> At present, due to the efforts of the United Mine Workers, few boys under sixteen are employed in the mines.

Earnest efforts were made to secure child labor legislation as early as 1886, but no law was placed upon the statute books until 1902. During this time important industrial and social changes were taking place and child labor was rapidly increasing.<sup>496</sup> One section of the factory act of 1902 attempted to protect the lives and limbs of child workers. It provided that "no person under sixteen years of age, and

no female under eighteen years of age shall be permitted or directed to clean machinery while in motion. Children under sixteen years of age shall not be permitted to operate or assist in operating dangerous machinery, of any kind." The first compulsory school attendance law of the State was enacted by the same General Assembly.<sup>497</sup>

A vigorous campaign was carried on for the purpose of obtaining an effective child labor law during the sessions of both the Twenty-ninth and Thirtieth General Assemblies, but no legislation was enacted. Finally, in 1906, a moderately good measure was passed.<sup>498</sup> The law provided that "no person under fourteen years of age shall be employed with or without wages or compensation in any mine, manufacturing establishment, factory, mill, shop, laundry, slaughter house or packing house, or in any store or mercantile establishment where more than eight persons are employed, or in the operation of any freight or passenger elevator." In certain classes of work the age limit was sixteen. A maximum work-day of ten hours was prescribed, and work between nine o'clock at night and six o'clock in the morning was prohibited. The law did not apply to the canning industry when no machinery was operated. The enforcement of the statute devolved upon the State Bureau of Labor. Although this law was incomplete it was, nevertheless, a movement in the right direction.<sup>499</sup>

An amendment of 1909 required employers to furnish proof of the age of any child employed by them and prescribed the kind of proof that must be furnished.<sup>500</sup> No other changes were made in the law until 1915 — the attempt to secure a revision of the law having failed in 1913 — but the compulsory school attendance laws were greatly improved.<sup>501</sup>

A really comprehensive child labor law was secured in 1915.<sup>502</sup> By the provisions of this act children under fourteen years of age may not be employed in factories and

mills. Boys under eleven and girls under eighteen years of age may not be employed in any street trade in cities of ten thousand or more inhabitants, and boys of from eleven to sixteen years of age must have work permits to enable them to work in the street trades. Stringent regulations are prescribed for child employment in dangerous trades. An eight hour day is the maximum for children below sixteen years and such children may work only between seven o'clock in the morning and six o'clock at night. Detailed regulations are prescribed in the matter of securing permits and the enforcement of the spirit of the law. This legislation, while it is lacking in many good features, places Iowa among the most progressive States in the matter of the regulation of child labor.

#### MISCELLANEOUS LABOR LEGISLATION

The general conspiracy law in the *Code of 1851* makes it a penitentiary offense to conspire "to injure the person, character, business, or property of another; or to do any illegal act injurious to the public trade". This provision probably includes boycotting within its terms.

Ever since 1866 there has been a provision in the Iowa statutes which requires the proper enclosing of tumbling rods upon horse-power threshing machines.<sup>503</sup>

In 1886 the statute governing the incorporation of associations not for pecuniary profit was extended to "trades union and other organizations of labor, for the regulation, by lawful means of prices of labor, of hours of work, and other matters pertaining to industrial pursuits."<sup>504</sup> A blacklisting law which aims to prevent the blacklisting of laborers by employers was enacted in 1888. Union labels were given legal protection in 1892; and a law of this same year aims to insure to employees the right to absent themselves from work long enough to vote on election days. In 1884 nine hours were declared to constitute a day's work on

the public roads, and in 1897 this was reduced to eight hours.<sup>505</sup>

Laws were passed in 1907 for the regulation of employment bureaus and offices; and the Commissioner of Labor was required by law to establish a Free State Employment Bureau in 1915.<sup>506</sup>

The Commissioner of the Iowa Bureau of Labor Statistics recommended the establishment of a State Board of Arbitration to aid in the settlement of industrial disputes in 1885. There was some effort to follow out his recommendation, but the final result was a provision for tribunals of voluntary arbitration in each county.<sup>507</sup> It appears that this law was never of any practical utility, and so it was not incorporated in the *Code of 1897*.

No further legislative provision was made for settling labor disputes by arbitration until 1913, when the Thirty-fifth General Assembly authorized the appointment of boards of arbitration and defined their powers and duties.<sup>508</sup> Whenever a dispute arises between employer and employees involving ten or more wage-earners which threatens to cause a strike or lockout, and the industry is not under any other board of conciliation, either one or both parties to the dispute, the Commissioner of Labor, or any one of several groups enumerated in the law may apply in writing to the Governor for the appointment of a board of arbitration.

Upon receipt of the application the Governor requests each party in dispute to submit the names of five arbitrators within three days. From these nominations the Governor chooses one from each group, or in case either party fails to make nominations the Governor appoints a fit person. These members then recommend a third person; whereupon the board organizes. In case the application is made by both parties it must state whether or not they are agreed to be bound by the board's decision. If they are so agreed the decision is binding for one year.

The board is vested with the same power as the district court in the matter of calling witnesses, administering oaths, and enforcing order. The expenses are paid by the State. The board is given ten days in which to visit the place of dispute and investigate conditions. During this period neither party may go on a strike or enforce a lock-out. A written decision of the case is made as soon as possible. This decision is at once made public, and filed in the office of the city clerk. Moreover, a written decision and a report of the findings must be made to the Governor; and each party to the dispute receives a copy, one copy is published in the report of the Commissioner of Labor, and the report is printed in two newspapers in the county. The compensation of the members of the board is five dollars per day. The law represents an attempt to prevent labor disputes from reaching the actual strike or lockout stage and to bring about fair dealings through publicity of conditions.

#### INDEMNITY FOR WORK ACCIDENTS

Until the adoption of the Workman's Compensation Act in 1913 the only attempt made by the Iowa legislators to protect workmen was by a modification of the following common law principles:

*Duties of Employers.*— It is the duty of the employer to use ordinary care for the safety of his employees and an injury resulting from breach of this duty constitutes negligence, for which he may be held liable.

*Occupational Risks.*— There are certain inherent hazards in every industry which no amount of care is able to overcome. For these the law of employers' liability affords no remedy.

*The Fellow Servant Rule.*— Neither can a master be made accountable to one workman for the negligent acts or omissions of another who is engaged in the same employment. With the growing complexity of modern industry, co-employment has ironically

kept pace. Track inspectors and locomotive engineers have been classed as fellow servants.

*Contributory Negligence.*— Another way in which the law baffles an injured workman in his endeavor to get indemnity for personal injury is through the doctrine of contributory negligence. No matter how delinquent an employer may have been, if the injury has resulted from the failure of the workman to exercise due care or on account of the slightest negligence on his part there is no compensation forthcoming.

*Assumption of Risk.*— Finally, if an employer is so notoriously negligent that the workman must have been aware of the danger, he is assumed to have tacitly accepted the negligence as a condition of his employment, assumed the risk, and waived his right to recover.<sup>509</sup>

Before the adoption of the accident indemnity law in 1913 the only method by which an injured workman could proceed to claim indemnity was through an appeal to the courts under the Common Law of employers' liability. It is true that the Common Law of employers' liability had been materially modified in the direction of justice and humanity by the Iowa statutes of railway liability and assumption of risk. But that law, even as thus modified, was still very far from according adequate protection to employees in any hazardous calling.<sup>510</sup>

Statutory modifications of the Common Law previous to 1913 may be briefly summarized. First, the Iowa railway liability law was enacted in 1862, and it provided that "every railroad company shall be liable for all damages sustained by any person, including employees of the company, in consequence of any neglect of the agents or by any mismanagement of the engineers or other employees of the corporation to any person sustaining such damage."<sup>511</sup> In 1870 there was added the clause: "all contracts to the contrary notwithstanding";<sup>512</sup> and two years later railroad companies were made liable for the wilful wrongs of their

agents and employees when such wrongs were connected in any way with the operation of the railroad.<sup>513</sup> These acts were combined in one section in the *Code of 1873*.<sup>514</sup> This liability applies to lessees and operators, but not to street railway companies. Interurban railroads were included within its provisions in 1902.<sup>515</sup> The defense of assumption of risk was abolished for violators of the automatic coupler and brake law in 1890.<sup>516</sup> An assumption of risk act was enacted in 1907 which completely superseded the Common Law doctrines as to the effect of protest and promise to repair.<sup>517</sup> A more comprehensive law, which was more favorable to employees, superseded the act of 1907. The same General Assembly in 1909 enacted an important amendment to the railway liability law.<sup>518</sup> This amendment established the rule of comparative negligence as to cases coming within the statute: it abolished contributory negligence as a defense to suits based on violations of the safety laws by railroad companies, and abrogated the Common Law doctrine of assumption of risk to the same extent that the earlier statute abrogated the fellow-servant doctrine.<sup>519</sup>

Thus by the year 1912 the fellow-servant rule and the doctrine of assumption of risk were not applicable in the case of railroads; nor was contributory negligence an absolute bar to recovery. But the fellow-servant rule and the contributory negligence doctrine remained in force in other industries; and the assumption of risk doctrine was applicable only to employees whose duty it was to repair defects and to those who remained at work when the danger was so imminent that a reasonably prudent person would not do so.<sup>520</sup>

The net result of all this legislation, Mr. Downey says, was satisfactory to neither employers nor employees. The indemnity of work accidents still depended upon the application of the law of negligence, and that law, in Iowa as everywhere else, is inadequate, slow, haphazard, and extremely wasteful in operation.<sup>521</sup>

The condition resulted in a demand for a rational indemnity system and the Thirty-fourth General Assembly created an Employers' Liability and Workmen's Compensation Commission, the duty of which was to investigate the problem of industrial accidents and the condition of the law of liability for injuries or death suffered in the course of industrial employment, and to enquire into the most equitable and effectual method of providing compensation for losses suffered. The commission was directed to report to the Governor and General Assembly and submit a draft of a bill or bills for appropriate legislation.<sup>522</sup>

The bill endorsed by a majority of the commission provided a quasi-elective, mutual insurance system.<sup>523</sup> Although this measure was greatly changed before its final passage by the Thirty-fifth General Assembly in 1913 the law as enacted represents the principles for which the original bill stood.<sup>524</sup>

The scope of the measure as written into statute law is broad. It applies to all employers and employees except household servants, farm hands, and casual laborers. In case the State or any of its political subdivisions is the employer it is compulsory upon both employer and employee. In all other cases the acceptance of the terms of the act is optional with both employer and employee. But unless the law is affirmatively rejected it becomes automatically compulsory upon both employer and employee. And in case an employer rejects the terms of the act he cannot escape liability for personal injuries sustained by his employees because of the assumption of risk, the fellow-servant rule, or on the ground of contributory negligence, except in case of wilful negligence or intoxication. The law, moreover, prohibits contracts between employers and employees which relieve the employer from liabilities for injuries caused by his own negligence.

If the employee rejects the terms of the act the employer



shall then "have the right to plead and rely upon any and all defenses including those at common law, and the rules and defenses of contributory negligence, assumption of risk and fellow-servant shall apply and be available to the employer as by statute authorized unless otherwise provided in this act."

The law defines many terms and includes a long compensation schedule. The amount of compensation is governed by the seriousness of the injury, and is determined by the average wages of the employee based upon his annual earnings for the year next preceding his injury. Employers may also be required to furnish surgical, medical, and hospital services to the amount of one hundred dollars. If death results from an injury and the employee has no one dependent upon him, the expenses of sickness and burial only, not to exceed one hundred dollars, are required from the employer. In case there are persons wholly dependent upon the employee they are entitled to receive one-half of the workman's average weekly wage — but not less than five nor more than ten dollars a week for a period of three hundred weeks. Provision is also made which entitles partial dependents to receive a proportional amount of the workman's annual wages formerly contributed to their support.

No compensation is allowed to a workman for injury resulting in incapacity of less than two weeks duration. For injury producing temporary disability the workman is entitled to fifty per cent of the weekly wage at the time of the injury, unless that wage be less than five dollars a week, in which case he is entitled to all of it. Payments are continued through three hundred weeks of such disability. For total permanent disability the injured workman receives the same compensation for a period of four hundred weeks. A complex schedule of compensation for various dismemberments is also included in the law. Payments may be made weekly or in a lump sum if desired.

The whole burden of indemnity payments is placed upon the employer, and any benefit or insurance arrangement whereby the employee contributes a part of his wages to a relief fund are held to be void.

The law created the office of Iowa Industrial Commissioner; and the administration of the law is placed in the hands of this commissioner, who is appointed by the Governor for a term of six years at a salary of three thousand dollars a year. The commissioner has large powers in settling disputes, securing testimony, and approving safety appliances.

Part III of the act outlines a scheme of industrial insurance and every employer under the act is required to secure his liability within thirty days with some corporation, association, or organization approved by the State Insurance Department. Such insurance may be either mutual or benefit.

The Thirty-seventh General Assembly enacted six separate amendments to the workmen's compensation act none of which changed the fundamental features of the law. Many changes were made in the compensation schedule, however, and the manner of arbitration was prescribed. Some penalties were changed and some new terms were defined.<sup>525</sup>

An attack was made upon the constitutionality of the Iowa Workmen's Compensation Law in the Federal Court for the Southern District of Iowa soon after its enactment, and in a decision rendered by Judge Smith McPherson on June 22, 1914, the act was declared to be constitutional in all its parts. The matter has since been appealed to the Supreme Court of the United States.<sup>526</sup>

#### RECAPITULATION

The need for labor legislation is recognized wherever the capitalistic system of production is in vogue. In Iowa the

capitalistic system developed slowly, due to the fact that the State was predominantly agricultural. As a result the labor legislation of this State is smaller in amount and of a less advanced character than that of many of the States of the Union.

The wage laws are scattered and few, but they are enforceable. Iowa has tried both the contract system and the State account system for the labor of convicts. The contract system has finally been abolished in favor of the public account system, but the problem of the proper disposal of convict labor remains unsolved.

The legislation affecting mine laborers in this State is more voluminous than that for any other one class of workmen. The purpose of this legislation is two-fold: it seeks to protect the lives and limbs of miners, and to secure to them the full control of their wages. Railway labor legislation seeks the same benefits for railway laborers as the mine laws seek for the miners. In this State the emphasis in railway labor laws has been placed on the protective features.

The Iowa Bureau of Labor Statistics has developed into a Bureau of Labor in the scope of its activities. It has easily justified its existence. It has gained the confidence and support of organized labor and coöperates with employers in a large measure.

Progress in factory legislation has been rapid. Provision is now made for fire escapes, for the safeguarding of dangerous machinery, for the equipment of grinding and polishing machines with dust collectors, for suitable water-closets, and for inspection by an official with ample power to enforce the laws.

Child labor laws came slowly in Iowa because their need was not keenly felt. But progress has been made until the child labor laws of this State now compare favorably with those of other Commonwealths.

The Iowa Workmen's Compensation Act of 1913 is a movement in the right direction. It recognizes that the financial burdens of industrial accidents should be borne by the industry and not by the individual workingman and his family.

## XII

### THE POWER OF MUNICIPAL CORPORATIONS IN ENACTING ECONOMIC LEGISLATION

The power to enact economic legislation has to some extent been delegated to municipal corporations by the General Assembly. For example, such corporations have been given power to make ordinances for the regulation of certain businesses, enterprises, and industries within their limits; but they enjoy only those powers which have been expressly conferred upon them by the legislature.<sup>527</sup>

In treating of the powers which have been delegated to municipalities to enact economic legislation the purpose will be to deal only with those laws which enumerate and delegate such power: only those grants of power will be considered which authorize municipalities to legislate upon the subjects which are clearly within the scope of the general plan of this work. Neither will the present treatment attempt to discuss the actual administration of the law or to point out what municipal corporations have done in enacting economic legislation: here it is intended merely to indicate what powers have been granted to the cities and towns of the State.

#### SPECIAL CHARTER CITIES

The Territory of Iowa was established in 1838, but the general law of the Territory of Wisconsin under which cities and towns could incorporate remained in force until 1840.<sup>528</sup> Indeed, there was no other general law for the incorporation of cities and towns enacted during the Territorial period, and the common practice of the time was to

incorporate cities and towns by special acts of the legislature. A general law providing for the incorporation of towns was passed in 1847, but the practice of granting special charters to municipal corporations was continued until prohibited by the Constitution of 1857.

During the period in which it was the policy to incorporate cities and towns by special acts of the legislature about forty cities and towns were chartered.<sup>529</sup> An examination of these special charters shows that the delegation of power varied considerably. Although the first towns to be incorporated under special charters received relatively little power, the charters voted at a later date, especially those granted in 1856 and 1857, conferred rather broad powers of local legislation. To indicate the scope of such grants of authority it will only be necessary to review the provisions of two or three typical charters.

The first special charter granted by the Legislative Assembly of the Territory of Iowa was granted to Bloomington (now Muscatine) in January, 1839.<sup>530</sup> By its provisions the only power delegated to the corporation in enacting economic legislation was the authority to regulate and improve lanes and alleys and to determine the width of sidewalks. The streets, lanes, and alleys of the town, including the several roads leading from the town for the distance of one mile, were declared to constitute one road district, and the electors of the town were to elect an overseer for such district.

The town of Davenport was granted a special charter only a few days later. In this case the officials were authorized "to make, ordain, and publish all by-laws and ordinances, not inconsistent with the constitution and laws of the United States, or of this Territory, as they shall deem necessary and proper for the promotion of morality, as well as for the good regulation, interest, safety, health, cleanliness, and conveniences of said town and the citizens there-

of". The corporation was also authorized to improve all streets, alleys, sidewalks, and drains or sewers; to regulate markets, and to establish a fire department. The same provision was made in regard to a road district as had been included in the Bloomington charter.<sup>531</sup>

Davenport was re-incorporated by an act approved on February 11, 1842. This act authorized the corporation to regulate vessels and water-crafts within the limits of the town; to erect lamps; to license and regulate drays and other vehicles kept for hire; to regulate markets and the sale of produce; to regulate and improve the streets, wharves, public grounds and sewers; to organize and establish fire companies; and to license bakers and regulate the price and weight of bread. The provision relating to the town road district remained unchanged.<sup>532</sup>

Although the powers delegated to municipal corporations by the special charters varied greatly they usually included authority to construct and maintain a system of water supply and a lighting system. The specially chartered municipal corporations were given broad powers over streets and bridges. They could erect and maintain markets; improve and regulate wharves, docks, and the navigation of streams within their limits; license and regulate transient merchants; regulate local transportation systems, such as carts, carriage, dray, and express lines; protect the city from fire; and inspect and regulate weights and measures. They could levy and collect taxes on the taxable property within the corporation for the purpose of carrying out the authority given them; but the amount of the tax which could be levied was usually limited by the charter.

During the period when special charters were granted to municipalities the cities and towns were small, and so the regulation of the public service industries was a comparatively simple matter. Indeed, the public utilities problem, as we now think of it, did not exist. More attention was

given at that time to the regulation and license of the different lines of private business which were being conducted within the corporation. The powers relative to such regulation were enumerated in detail in the several charters. Some went so far as to allow the city to regulate the weight, quality, and price of bread to be sold and used in the city.<sup>533</sup>

#### POWERS GRANTED BY GENERAL INCORPORATION LAWS

In addition to the special charters the First General Assembly of the State passed a general law for the incorporation of towns in 1847.<sup>534</sup> Towns incorporated agreeably to this act were empowered to make such ordinances, not inconsistent with the laws and Constitution of the State, as they might deem necessary for the good government of the corporation. They could establish and regulate markets; provide a suitable water supply; and open, improve, and regulate streets and alleys. They had jurisdiction over public grounds and wharves and the authority to establish and maintain suitable fire departments.

The *Code of 1851* provided for the incorporation of towns and cities in much the same manner as did the act of 1847; and the power to enact economic legislation which was delegated to them was also much the same. They were authorized to establish, regulate, and improve streets; to provide a sewer system; to provide a water supply; to regulate and repair wharves and landing places; to regulate markets; to license and regulate local transportation systems; and to provide protection against fire.<sup>535</sup>

The Constitution of 1857 provided that the General Assembly should not pass local or special laws for the incorporation of cities and towns,<sup>536</sup> and in the following year the General Assembly passed a general law entitled "An Act for the Incorporation of Cities and Towns."<sup>537</sup> All towns



and cities were thereafter to be incorporated in the manner prescribed by this act, but the new law was not to apply to those cities and towns which had already been incorporated, unless they wished to come under its provisions.

Towns and cities incorporated under the act of 1858 were empowered to legislate as follows: to establish and regulate markets and to provide for the measuring or weighing of hay, coal, or other articles offered for sale; to provide fire protection and to establish fire zones and regulate building materials; to provide and regulate a water supply; to install, regulate, and improve a drainage system; to provide and regulate a proper lighting system; to lay out, regulate, and improve streets and wharves; to regulate transient merchants and auctions; and to regulate local transportation companies. In addition to the specific powers enumerated a general welfare clause provides that cities and towns may make "such by-laws and ordinances as to them shall seem necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort and convenience of such corporation and the inhabitants thereof."<sup>538</sup>

During the period from 1858 to 1873 there was little change made in the powers which had been delegated to cities and towns by the act of 1858. The Fourteenth General Assembly in 1872 authorized municipal corporations to construct, or cause to be constructed, water-works — provided that when the right to construct such work was granted to private individuals or corporations the grant should not be for a period of more than twenty-five years.<sup>539</sup> Several additional amendments of minor importance were made during this same period.<sup>540</sup>

From 1873 until the adoption of the *Code of 1897* many acts affecting the powers of cities were placed upon the statute books. The *Code of 1897* collects these laws and re-

writes the whole body of statutes pertaining to the general powers of cities. Since 1897 many more additions and amendments have been made to the law. Space will not permit of the separate treatment of each one of these laws; nor would such treatment be desirable as the great majority of the laws enacted were fragmentary amendments. The purpose will be, rather, to show the present status of the law and to indicate what powers have been granted to cities in the matter of enacting economic legislation.

Cities and towns in this State are political corporations which have no inherent power to make laws. They are political bodies with enumerated powers, acting by delegated authority only.<sup>541</sup> Moreover, the statutory classification of the powers that have been delegated to cities and towns will be followed in this discussion.

Municipal corporations are authorized to prevent nuisances and to seize and destroy unsound meat and provisions. They have power to regulate, license, and tax hotels and restaurants; to define and regulate transient merchants, pawnbrokers, and auctioneers; to regulate, license, and tax peddlers, bill posters, junk dealers, scavengers, itinerant doctors and surgeons; to license engineers and plumbers; and to license and regulate the keepers of employment bureaus.<sup>542</sup>

Municipal corporations may legislate against the maintenance of dangerous buildings, and pass regulations to prevent danger from accidents by fire or electricity. They may establish fire limits, and regulate the material used in buildings erected within such limits. They may regulate and control the construction of all heating apparatus, and the manufacture of explosives. They may inspect steam boilers and abate smoke nuisances. They may also prescribe rules and regulations for the installation of electric light and power wiring and appliances.<sup>543</sup> And they have power to organize and maintain fire departments and fire companies.<sup>544</sup>

Cities and towns may establish and regulate markets, build market-places, regulate the measuring and weighing of goods offered for sale, and prevent huckstering.<sup>545</sup> They may establish, construct, and regulate wharves and piers; and they may regulate ferries within their limits.<sup>546</sup>

Up to this point it appears that the powers enumerated are simply a repetition of the powers granted by the law of 1858. The newer grants and those having to do with public service utilities will now be considered.

Municipal corporations in Iowa are authorized to legislate in regard to heating plants, water or gas works, and electric plants. They have power to purchase or erect and to maintain and operate such works within or without the limits of the corporation; and they may lease or sell the same. They may grant the authority to build and maintain such plants or works to individuals or private corporations, but not for a term of more than twenty-five years. Such a grant may be renewed, extended, or amended. They may make contracts for the purchase and sale of the services or commodities supplied by such plants, with the same privileges and powers to establish rates and collect rents as are held by cities having municipally owned plants; but no such plant may be purchased or erected or sold or any franchise be granted or changed or contracts entered into in regard to such plants unless a majority of the legal electors voting thereon vote in favor of the proposition at a general, city, or special election. Nor may an exclusive franchise be granted.<sup>547</sup>

Cities and towns may submit to a vote of the electors the questions pertaining to the operation of the plants referred to; they may condemn the land necessary for the construction and operation of such plants; they may protect them; and when such plants are operated by the corporations they may fix rates and taxes.<sup>548</sup>

Furthermore, cities and towns "shall have power to re-

quire every individual or private corporation operating such works or plant, subject to reasonable rules and regulations, to furnish any person applying therefor, along the line of its pipes, mains, wires, or other conduits, with gas, heat, water, light or power, and to supply said city or town with water for fire protection, and with gas, heat, water, light or power for other necessary public purposes, and to regulate and fix the rent or rate for water, gas, heat, light or power; to regulate and fix the rents or rates of water, gas, heat and electric light or power; to regulate and fix the charges for water meters, gas meters, electric light or power meters, or other device or means necessary for determining the consumption of water, gas, heat, electric light or power, and these powers shall not be abridged by ordinance, resolution or contract.<sup>'1549</sup>

In addition to the general powers enumerated, every city or town situated on any natural or artificial waterway within or bordering on the State was authorized in 1913 to create a department of public docks, with elaborate powers.<sup>550</sup>

Cities of the first class have been granted additional powers to purchase, construct, and operate water-works. Water-works operated by such a city must be managed by a board of three trustees appointed by the mayor for a term of six years.<sup>551</sup>

Cities and towns have been granted large powers in the matter of regulating streets, bridges, and public grounds. They have power to establish and improve streets, bridges, and public grounds, and possess the power necessary to raise money to pay for such improvements.<sup>552</sup> They have full power to license, regulate, and tax all conveyances and means of transportation, including jitney busses. They may also fix the prices to be charged for transportation in the different vehicles.<sup>553</sup>

In regard to street railways the law provides that "cities and towns shall have the power to authorize or forbid the

construction of street railways within their limits and may define the motive power by which the cars thereon shall be propelled; and to authorize or forbid the location and laying down of tracks for railways and street railways on all streets, alleys and public places; but no railway track can thus be located and laid down until after the injury to property abutting upon the street, alley or public place upon which such railway track is proposed to be located and laid down has been ascertained and compensated for in the manner provided with reference to taking private property for works of internal improvement.<sup>554</sup>

Cities and towns have power to authorize and regulate the stringing of wires and the erection of supports over or under the streets, but no franchise may be granted for the use of the streets except upon a favorable vote of the majority of the legal voters voting on the question at a general or city election.<sup>555</sup>

In the matter of providing street improvements and sewers cities and towns have broad powers. They may improve streets by grading, parking, curbing, paving, graveling, macadamizing, or guttering; and they may provide for the construction of sewers and their appurtenances. They may, moreover, levy special assessments to pay for such improvements.<sup>556</sup> In addition to the powers heretofore enumerated cities and towns have recently been granted authority to provide for the protection of city property from floods.<sup>557</sup>

The supply of the services of such utilities as water-works, sewage disposal systems, street railways, telephones, gas works, electric plants, and heating plants to the inhabitants of cities and towns is a commercial proposition. The industries which supply such services tend to monopoly and can not, therefore, be left to unregulated private enterprise. An examination of the several statutes granting power to municipal corporations to legislate for the regulation of

such utilities shows, however, that there is no consistent plan for the regulation of public utilities in this State.

In the matter of franchises, a municipality may authorize a privately conducted enterprise to construct and operate heating plants, water-works, gas plants, and electric light or electric power plants. No franchise may be authorized for a longer period than twenty-five years; no exclusive franchise may be granted; and no franchise is valid until it has been submitted to and ratified by the electors of the city at a general or special election.<sup>558</sup>

Cities and towns can determine for themselves whether or not street railways shall be permitted within their limits. They may define the motive power to be used and determine upon which streets and alleys tracks may be laid. There seems to be no time limit nor referendum for such grants. But the right to erect poles or string wires can be granted only upon a referendum vote.<sup>559</sup> This does not seem to be final in the case of telephone lines, however, for the Supreme Court has held that under an act authorizing the construction of telegraph or telephone lines along the public highways of the State a city's consent is not necessary to such occupation of its streets.<sup>560</sup> Another decision rendered at a later date holds the opposite view.<sup>561</sup>

The power of municipal corporations to pass police ordinances also varies according to the class of the utility company concerned. They may require service and fix the rates to be charged by gas, water, and electric companies. They may regulate the location and construction of street railways and telephones. It appears, however, that the rates and service of street railways can be regulated only by franchise or contract and that the rates and service of telephone companies can be regulated by neither ordinance nor franchise.<sup>562</sup>

Nor does the power of municipalities in Iowa to operate public service industries extend to all classes of utilities

alike. They may purchase, construct, maintain, and operate water-works, and gas or electric plants upon the affirmative vote of the qualified electors of the municipal corporation. But they may not acquire or operate street railways or telephones.<sup>563</sup>

### XIII

#### TAX LEGISLATION<sup>564</sup>

Taxation and tax legislation play an important part in the economic development of any country. Although it may be contended that taxation is for the sole purpose of securing revenue with which to conduct the government or to bring about some desirable change in social relations, it must be kept in mind that the State government can not collect any revenue without affecting economic and social relations, that social changes are influenced very decidedly by changes in wealth, and that every tax affects the wealth of individuals directly. Indeed "taxation may create monopolies or it may prevent them; it may diffuse wealth or it may concentrate it; it may promote liberty and equality of rights, or it may tend to the establishment of tyranny and despotism; it may be used to bring about reforms, or it may be so laid as to aggravate existing grievances and foster dissension and hatred between classes; taxation may be so contrived by the skillful hand as to give free scope to every opportunity for the creation of wealth or for the advancement of all true interests of states and cities, or it may be so shaped by ignoramuses as to place a dead weight on a community in the race for industrial supremacy."<sup>565</sup>

In the brief outline of the history of tax legislation in Iowa here presented little will be attempted beyond trying to show the development as indicated by actual legislation. It has been thought best in this study to discuss several special phases of taxation under other headings: that is to say, the taxation of railroads, telegraph and telephone companies, express companies, corporations, banks, and insur-



ance companies has been treated above in the several chapters dealing with these special subjects.

#### TAX LEGISLATION DURING THE TERRITORIAL PERIOD

The system of taxation which prevailed in the Iowa country before it became a separate Territory in 1838 was that of the Territory of Michigan and of the original Territory of Wisconsin. This system dated back to the establishment of the Territory of Michigan in 1805, and was borrowed largely from Ohio and Virginia. The plan consisted of such elements as the general property tax, license taxes, and county assessment, and was administered almost exclusively by ex officio officials. These same elements characterize the revenue acts passed by the first Legislative Assembly of the Territory of Iowa, which acts were borrowed almost without change from the statute books of the original Territory of Wisconsin.<sup>566</sup>

The Organic Act creating the Territory of Iowa provided that the legislative power of the Territory should extend to all rightful subjects of legislation. Two limitations were, however, placed on the taxing power: "no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents."<sup>567</sup> The first restriction still exists not only in this State but in all other States and Territories; the second has lost all uniformity and meaning.

The First Legislative Assembly of the Territory met at Burlington in November, 1838. Although the expense of the Territorial administration was low and the greater part of that expense was borne by the Federal government, the resident taxpayers were required to meet not only the cost of local administration, but also a part of the Territorial expenses. Accordingly, among the several acts passed by this Assembly were two which provided for a county and

Territorial revenue system entitled, respectively, "An Act for assessing and collecting county revenue" and "An Act to provide for a Territorial Revenue".<sup>568</sup>

The act pertaining to the assessment and collection of county revenue is basic and fundamental in our taxing system. It made the county the unit for the levy and collection of the general property tax — a position which the county still holds. The act provided that the several boards of county commissioners should levy a tax on all real property and the improvements thereon and upon all personal property, for the purpose of raising revenue for county purposes.<sup>569</sup>

Provisions concerning exemptions, license taxes, and a poll tax followed. Seventy-five dollars worth of household furniture to each householder, libraries, tools of mechanics, and agricultural implements were exempt from taxation. An annual tax was imposed on each license for retailing spirituous liquors, on each license to vend merchandise, on each license to peddle clocks, and on each ferry. Other sections referred to license taxes and defined how and upon whom they were to be levied. A poll tax of one dollar was imposed on every qualified voter under sixty years of age. The law further stipulated that the levy should not in any case exceed five mills on the dollar. Nor should any tavern-keeper retail liquors without a license.<sup>570</sup>

In the important matter of administration the law provided for the annual election of one assessor for each county who was required to take oath and give bond. The county commissioners were empowered to fill all vacancies in the assessor's office. The assessor after qualifying was required to assess all property subject to taxation and deliver to the board of commissioners the complete assessment roll on or before the first Monday in July. The act defined in detail the description of property to be contained in the assessment roll and outlined the duties of all officials.<sup>571</sup>

Errors and omissions in the assessment roll were to be corrected on the last Monday in June by the assessor and the clerk of the board of commissioners. The corrected roll was then filed in the clerk's office, where it was to remain on record as a guide to future assessors. The county commissioners were empowered to fix the compensation of the assessor at a rate which seemed just and reasonable to them.<sup>572</sup>

The board of commissioners, at their July session of each year, determined the tax rate from the corrected assessment roll. When the total amount of property and the rate of taxation was determined the clerk was required to calculate and carry out the amount of the taxes opposite the specified property, lots, or lands subject to taxation. The tax roll was to be completed in duplicate and one copy filed with the county treasurer and the other, together with a precept in the name of the Territory, was delivered to the county collector, who was the sheriff of the county. The collector was required to pay over all moneys collected by him, with a transcript of the tax-roll and an account of his official acts, together with the precept, to the clerk of the board of commissioners on or before the first Monday in January.<sup>573</sup>

Other provisions of the act outlined the method of selling property for delinquent taxes and of redeeming property sold for taxes, and dealt with tax deeds and tax liens. These provisions are given in detail and filled some ten pages of the statute book.

The act pertaining to Territorial revenue was composed of four short sections. It provided that five per cent of the gross amount of taxes charged on the assessment roll should be set apart by the county commissioners for the use of the Territory. Each board of county commissioners was required to furnish the treasurer of the Territory with a statement of the amount due the Territory, together with a duplicate assessment roll. The act specified, moreover, that

the amount due the Territory was to be retained by the county treasurers and paid from the first funds returned by the collectors. The several county treasurers were held responsible for any losses which might accrue.<sup>574</sup>

"A brief study of these companion acts", says Mr. Brindley, "will convince the reader that they are still in a very real sense the basis of the present revenue system of Iowa. While many changes have been made to meet new conditions, the fundamental outlines of our revenue system have remained much the same. To make this point clear it is only necessary to recall the distinctive features of the acts. Taxes were levied by a county board of commissioners, assessed by a county assessor, and collected by a county collector and his deputies, a portion thereof being paid into the treasury of the Territory. From a fiscal standpoint the county was thus made the important unit of government by the first Legislative Assembly, and in the levy and collection of taxes it has so remained to the present time. While the county plan of assessment has been supplanted by that of the township or precinct, the county still has in charge the collection of taxes, and through its board of equalization exercises a certain supervision over assessment."<sup>575</sup>

The revenue laws of the Territory were changed in 1840. There had been much opposition to the taxation of improvements on land, and the actual settlers held that such taxes discriminated against them in favor of non-resident landholders who were holding lands for purposes of speculation.<sup>576</sup> The amendment, accordingly, provided for the assessment of real estate at the actual value which such real estate would bear without the improvements upon it. The poll tax was made optional with the board of county commissioners; and merchants and storekeepers were allowed to sell clocks without a special license. And the stock of duly licensed merchants, sheep, school lands and property, the property of literary and scientific institutions,

and all property of the Territory were declared to be exempt from taxation. Provision was made for an extension of the time granted to the collector for making his report. The assessor was authorized to appoint a deputy upon the approval of the county board, and in case the assessor had reason to believe that any person was not making a true statement of his property he was empowered, at his discretion, to swear such person to give a true account of the quality and quantity of such property, according to the best of his or her knowledge and belief.<sup>577</sup>

Provision was made at the same session for the annual election of a county treasurer whose duty it was to receive the moneys due to the county and to disburse the same on orders drawn by the board of county commissioners. He was also required to settle his accounts with the board and collect delinquent taxes.<sup>578</sup>

An act was passed by the Legislative Assembly and was approved on January 15, 1841, which repealed and superseded both the former acts providing for the assessment and collection of county revenue. The new act made few changes beyond combining the two. All the essential features of the former acts were retained, but some changes were made which should be noted. The amount of household furniture exempt to each householder was increased to one hundred dollars; several changes were made in the rates of licenses, and provision was made whereby poll taxes could be worked out on the roads. Landholders who were unsatisfied with the valuation placed upon their land were allowed to make complaint before the board of county commissioners, who were authorized to alter such valuation if they thought it too high. More definite provision was also made for the delivery of a good title to persons buying land at tax sales.<sup>579</sup>

Dissatisfaction with the Territorial tax of five per cent which was levied upon the gross tax receipts of the various

counties led to the enactment in 1841 of a law which provided for a regular millage tax for the Territory. This act provided "that there shall hereafter be levied and collected on all taxable property within this Territory, one quarter mill's per cent. on the value thereof, for Territory purposes."<sup>580</sup> The millage levy for State purposes has remained as a permanent part of our system.

While the rate of taxation was low in Territorial Iowa good money was very scarce and there was continuous agitation for a change in the revenue system. The Legislative Assembly no sooner convened in 1843 than the work of redrafting the revenue laws was begun. When the work was done a new law had been placed upon the statute books which accomplished three things: it provided a township system of assessment; it levied a Territorial tax on the basis of property in the respective counties; and it required the payment of the Territorial revenue to be made in cash.<sup>581</sup>

The next Legislative Assembly enacted a new revenue law which was approved on February 15, 1844. It did little more than rewrite the previous law in simpler form. The whole working machinery of the revenue system was left essentially the same. There were, however, a few changes which should be noted. Many additions were made to the list of exempted property. Mortgaged personal property was deemed to be the property of the possessor for purposes of taxation; money at interest and stocks in corporations or associations were defined as personal property and were to be taxed at their true value; Territorial taxes could be paid in either cash or in Territorial orders or warrants; and a half-mill was levied for Territorial revenue.<sup>582</sup>

It will be remembered that the early acts pertaining to the collection of the revenue provided for a county assessor and that the later laws had established a township or precinct system. There was constant strife between the ad-

herents of these two forms of local government, and in 1845 those who favored the county system secured the passage of a law which provided for a return to the county plan of assessment.<sup>583</sup> The duties of the county assessor were clearly defined by an act approved on January 2, 1846.<sup>584</sup>

Agitation for statehood had been carried on since 1840, but it was opposed by those who feared it would mean higher taxes. Finally, a favorable vote for State government was secured in 1844. Two constitutional conventions were held, however, before Iowa became a State on December 28, 1846.

The Territorial period was one of change and experiment in tax legislation, and the general outlines of our present revenue system, both local and central, were created. In spite of the many changes that were made in the revenue laws during this period it appears that they never produced the needed revenue. The period began and ended with the county system of assessment. The problem of the basis of the assessment of property was finally settled in favor of the assessment of property at its cash value, taking into consideration certain factors specified in the law. It was also decided that the improvements on land should be included in the valuation for the purpose of taxation; and the millage rate on property for Territorial revenue displaced the system of apportioning such revenue according to the gross tax receipts of the various counties.<sup>585</sup>

#### TAX LEGISLATION FROM 1846 TO 1857

The Constitution of 1846 under which Iowa was admitted into the Union contained only a general reference to the subject of taxation. It provided that "all laws of a general nature shall have a uniform operation", and that each house "shall have all other powers necessary for a branch of the general assembly of a free and independent state."<sup>586</sup>

The new State came into the Union with an empty treas-

ury and a badly administered and defective revenue system. The need for a revision of the tax legislation was recognized, but the evils of bad administration were lost sight of in the agitation for a system of assessment which would exempt the improvements on land. The new revenue law which was approved on February 25, 1847, was, however, a victory for the adherents of the so-called ad valorem system of taxation: the improvements on land were not exempted.<sup>587</sup>

The new law specified that "all real and personal property of whatever kind, shall be assessed and taxable" with the exception of enumerated exempt property. The exemptions were about the same as those in the earlier laws; and the taxable property was enumerated at greater length. Among the specific enumerations were the following: "all town lots or lands with improvements thereon", and "every annuity, together with all moneys invested in property, of any kind, and secured by deed, mortgage, or other evidence of claim". Provision was made, however, for the deduction of debts from the amount of moneys and credits listed for taxation. A poll tax of fifty cents on every man over twenty-one years of age was prescribed. The provisions relating to license taxes were simple and the number of such taxes was greatly reduced. Indeed, it appears that the law of 1847 marks a movement away from this form of taxation. In the important matter of administration no improvements were made over the earlier laws.<sup>588</sup>

An amendatory act passed at the extra session of the General Assembly in 1848 improved the administration of the revenue law. County officials were required under penalty to furnish the Auditor of State with such information in regard to the State revenue as he should require.<sup>589</sup> This gave to the State its first real fiscal authority.

The next change in the revenue system is found in the *Code of 1851* which became operative on July 1, 1851. The



machinery for levying and collecting taxes was improved. There was a more logical classification of taxable property and of property exempt from taxation; and provision was made for a Census Board which was given some authority in the correction of assessments and the equalization of taxes.

The chapter on *Revenue* contained the following subdivisions: taxes to be levied, rate fixed by law for State, county, and local; property exempt from taxation; property liable for taxation; by whom, where, and in what manner, property is to be listed and assessed; the assessment roll, the correction thereof, and the tax list; and finally, the collection of taxes.<sup>590</sup>

Under the provisions of this Code the levy was made on all taxable property by the county court, which fixed the rate within the following specified limitations: for State revenue, three mills on the dollar, when no rate was determined by the Census Board; for ordinary county revenue, including the support of the poor, not more than six mills on the dollar, and a poll tax of fifty cents; for the support of schools, not less than one-half mill nor more than one and one-half mills on the dollar; and for roads and bridges, between one and three mills on the dollar on the amount of the county assessment, unless a higher rate was established by a vote of the people of the county upon the question being submitted in the usual manner.<sup>591</sup>

All property, real and personal, within the State, except that specifically exempted by statute was subject to taxation. This embraced lands, lots in towns, ferry franchises, horses, cattle, mules, asses, sheep, and swine, money either in possession or on deposit, debts due, mortgages, securities, accounts bearing interest, shares of stock, boats and vessels, annuities, furniture, libraries, vehicles, musical instruments, and "all other property not above exempted although not herein specified."<sup>592</sup>

An additional poll tax for road purposes was required, which was to be not less than one nor more than two dollars per year — which might be paid in labor.<sup>593</sup> The system of license taxation was simple and the number of licenses few.<sup>594</sup> Little that is new was included in the exemption list: a more complete summary of public property was included, and mutual insurance companies were added.<sup>595</sup> The term credit was defined, and any person was entitled to deduct all bona fide debts owed by him from the gross amount of his moneys and credits.<sup>596</sup> Merchants and manufacturers were required, in listing their property for taxation, to take the average value of the property in their possession or control during the year just previous to the time of listing.<sup>597</sup>

The county judge, clerk, and treasurer were made to constitute a county board of equalization, and the Census Board was intrusted with the work of State equalization.<sup>598</sup> The provisions relative to delinquent taxes were also made more clear and definite than under the old laws;<sup>599</sup> and the system of administration was much improved.

“The system of taxation outlined in the *Code of 1851*, embracing as it did a plan of county assessment and collection, a combination of State and local levy made within certain well defined statutory limitations, and finally a dual scheme of local and central equalization, forms a close approximation to the revenue laws now in force. When we add to this the evolution of specific methods of taxing insurance companies and certain other corporations, it appears that more than half a century ago something like a modern system of taxation was being created — that is to say, it was about as modern as anything that has thus far been developed in Iowa.”<sup>600</sup>

The provisions of the *Code of 1851* did not remain long unchanged. A system of township assessors was reestablished in place of the county assessor by an act approved on

January 22, 1853. Such assessors in conjunction with the county judge were thereafter to form the county board for the equalization of assessments. Certain slight changes were made in the provisions relative to exemptions and several additional license taxes were included.<sup>601</sup> A return to the former system of county assessment was made in 1857 and the Census Board was definitely retained as a State board of equalization. It was to meet every two years for the purpose of equalizing the valuation of real property among the several counties and towns in the State.<sup>602</sup>

#### TAX PROVISIONS IN THE CONSTITUTION OF 1857

The present Constitution of Iowa which was adopted in 1857 contains several important provisions pertaining to the exercise of the taxing power. The provision that "all laws of a general nature shall have a uniform operation" was retained. It was further provided that "the General Assembly shall not pass local or special laws . . . for the assessment and collection of taxes for State, County, or road purposes". The clause of the Constitution which has probably had the greatest influence on the history of taxation in the State is that section which provides that "the property of all corporations for pecuniary profit, shall be subject to taxation, the same as that of individuals."<sup>603</sup>

Another important provision of the Constitution of 1857 limits the power of a county or other political or municipal corporation in contracting debts to an amount not exceeding in the aggregate five per cent of the value of the taxable property within such county or corporation. Finally, "the credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation". Nor shall the State contract debts in a greater amount than two hundred and fifty thousand dollars.<sup>604</sup>

## LEGISLATION PERTAINING TO TAXATION 1857-1873

The period from 1857 to 1873 was one of administrative decentralization, during which very little, if any, progress was made in the development of a suitable revenue system for the State. An act of 1858 re-stated almost the entire body of the revenue laws of the State, but it left the system as a whole very much as it was before. The most important change made by this lengthy act was a third return to the township system of assessment. The new limitations in rates should, however, be noted. The following limits were set: for State revenue three mills on the dollar, when no rate had been directed by the Census Board; for ordinary county revenue, including the support of the poor, not more than six mills, and a poll tax of fifty cents; for the support of schools not less than one nor more than two and a half mills on the dollar; for building and repairing bridges, not more than one mill on the dollar whenever such tax was established by a vote of the people of the county, upon the question being submitted to them according to law.<sup>605</sup> Two days labor on the roads was also required of every able-bodied man between the ages of twenty-one and forty-five years.<sup>606</sup>

The law of 1858 was reproduced with few important changes in the *Revision of 1860*.<sup>607</sup> Some improvement was made in the law in the matter of collecting delinquent taxes and with regard to the deeds given in the event of the sale of property for taxes.<sup>608</sup> A material reduction of the rate was also permitted by the law as it appears in the *Revision of 1860*. The following rates were specified: for State revenue, one and one-half mills when no rate was determined by the Census Board, but in no case more than two mills; for ordinary county revenue, including poor relief, not over four mills, and a poll tax of fifty cents; for school support, not less than one nor more than two mills on the dollar; and for bridges, one mill whenever the board of supervisors should

deem it necessary.<sup>609</sup> The rate for State purposes was increased, however, by an amendment which was approved on May 27, 1861.<sup>610</sup>

The extraordinary financial strain caused by the Civil War was beginning to be felt when the Ninth General Assembly met in 1862. One of the first acts passed at this session provided for the payment of taxes in the new treasury demand notes, which were being issued by the general government, and in the notes issued by the various branches of the State Bank of Iowa, provided that the notes of the branches of the State Bank of Iowa were not to be received for such payment after any one of the branches should fail to redeem its notes.<sup>611</sup> Provision was also made for the assessment, levy, and collection of the State's quota of the Federal tax which had been authorized by Congress on August 5, 1861. The act authorized a levy of two mills on the assessment of 1861 and provided for its collection.<sup>612</sup>

Little more was accomplished in the way of tax legislation before the adoption of the *Code of 1873*.<sup>613</sup> Certain additional provisions were made in exempting certain lands used for growing fruit and forest trees as an encouragement to the use of land for such purposes.<sup>614</sup> One other act, which has remained as a permanent feature of our revenue laws and which has done much to simplify the assessment roll, should be mentioned. This law provided that uniform taxes should be placed on the tax list in a single column and called a consolidated tax, and that tax receipts should be printed to show the per cent levied for each separate fund.<sup>615</sup> Other acts increased the maximum levy for road purposes to five mills, increased the rate to create a sinking fund in cities to two mills, and authorized counties to create and maintain high schools.<sup>616</sup> Finally, still other acts were passed placing limitations on the local taxing power.<sup>617</sup>

The legislation enacted during the period under consid-

eration (1857 to 1872) accomplished certain things: the fiscal power of the State was strengthened; tax titles were made more secure; the fiscal reports submitted to the State by the counties were required to be more complete and accurate; and progress was made in the solution of the delinquent tax problem. A more efficient system of collecting State taxes was developed. In the matter of administration the principle of decentralization held sway and dissatisfaction resulted. It was a period of high taxes, due in part to the war and in part to the rapid industrial development after the war. The maximum levies authorized by law in 1872 varied from eighty mills in rural districts to more than ninety-six mills in some cities.<sup>618</sup>

#### TAX LEGISLATION FROM 1873 TO 1917

The *Code of 1873* marks no new advance in the revenue system of the State. The Census Board was superseded by a board known as the Executive Council — consisting of the Governor, Secretary of State, Auditor of State, and Treasurer of State — and other minor changes were made, but the old system remained almost unchanged.<sup>619</sup>

It was generally recognized that the system was defective and that property was reported and assessed at much less than its actual value. Assessments were grossly unequal; real property was assessed at about one-third of its value; the motive or standard of value governing the assessor was an unknown quantity; and finally, the work of the various boards of equalization in correcting inequalities of assessment was nominal and not real. These evils were recognized as existing, but there was no definite program for their correction.

There was almost constant agitation for reform during the next decade, but aside from minor acts relative to license taxes, exemptions, and limitations no improvement was made in the revenue laws of the State. Agitation was

carried on for more than six years before a law providing for the semi-annual payment of taxes could be secured.<sup>620</sup>

That the general property tax was a failure from the standpoint of administration was recognized. The revenue laws did not guarantee justice between individuals or local units of government under the existing industrial conditions; nor do they guarantee such justice to-day. "Since the first revenue act was passed in 1839", says Mr. Brindley in his *History of Taxation in Iowa* in 1910, "an effort has been made to create an efficient system of taxation by the enactment of law. The whole body of this fiscal legislation may be conveniently classified under two heads: first, laws establishing general machinery for the levy, assessment, equalization, and collection of taxes; second, laws relating to specific problems in taxation. In this connection it is not possible to give absolute dates. It has already been noted that the main outlines of our general revenue system are to be found in the *Code of 1851*. When the *Code of 1873* and more especially the semi-annual tax law of 1884 are reached we are brought face to face with what is practically the fiscal system, State, county, and local, of to-day."<sup>621</sup>

Little more remains to be said in regard to the development of the general revenue system in this State. There has been an almost continuous agitation for a revision of the revenue laws, but little has been accomplished. Governor Boies in 1892 recommended the creation of a tax commission to study the needs and defects of the revenue system and to report a bill to the General Assembly. It was his belief that during a session of the General Assembly there was not sufficient time for the adequate consideration and revision of the revenue laws.<sup>622</sup>

The Twenty-fourth General Assembly, in compliance with the recommendations of Governor Boies, passed an act which provided for a temporary commission of four members named by the Executive Council. It was made the

duty of the commission to investigate the laws and report necessary changes.<sup>623</sup> The commission studied the laws and the general revenue situation and drafted a rather conservative bill which was submitted to the Twenty-fifth General Assembly with the report of the commission. The main feature of the report was the consideration of the proper method of valuation and the most noticeable feature of the proposed bill was the attempt to prevent the gross under-valuation of property and the consequent inequalities of assessment.<sup>624</sup> The General Assembly failed, however, to enact any legislation in line with the recommendations of the commission.

Until 1897 the attempt had been consistently made to tax all property at its full cash value. The attempt had always failed of realization, and the failure was admitted in the *Code of 1897* which provides that "all property subject to taxation shall be valued at its actual value, which shall be entered opposite each item, and shall be assessed at twenty-five per cent. of such actual value. Such assessed value shall be entered in a separate column opposite each item, and is to be taken and considered as the taxable value of such property, and the value at which it shall be listed and upon which the levy shall be made. Actual value of property as used in this chapter shall mean its value in the market in the ordinary course of trade."<sup>625</sup>

The General Assembly continued to enact legislation at succeeding sessions, but no fundamental changes were made in the revenue system. A tax ferret system—created largely for the purpose of securing a more complete listing of moneys and credits—was established in 1900.<sup>626</sup> There was much dissatisfaction, however, with this method of locating property withheld from taxation, and so the system was abolished in 1911.<sup>627</sup> The same General Assembly which abolished the tax ferret system provided for the taxation of moneys and credits at a flat rate of five mills on the



dollar,<sup>628</sup> but this law has not improved the situation to any appreciable extent.

An attempt was made in 1907 and again in 1909 to have the General Assembly provide for a tax commission, but these efforts failed.<sup>629</sup> In his biennial message to the General Assembly in 1911 Governor Carroll recommended the creation of a tax commission "to study carefully all the phases of the taxing question, prepare an entire new revenue code and submit it to the next session of the General Assembly."<sup>630</sup> The General Assembly complied with this recommendation and a commission consisting of five men was provided for. The commission was "to examine into tax assessment, tax levy and tax collection laws of the state of Iowa, and of other states, and use such means and make such investigations as it shall deem best to secure information, for the purpose of ascertaining whether the present laws of the state of Iowa regulating the assessment, levying and collection of taxes may not be improved, and to report its findings together with such recommendations as it may deem desirable, to the governor . . . . The report and recommendations of the commission shall be transmitted by the governor to both branches of the general assembly of 1913".<sup>631</sup>

The report and recommendations of the commission were placed before the General Assembly in 1913. The report criticized the present system in very severe terms. It declared that the chief defect in our revenue law was its failure to provide adequate administrative machinery. Accordingly, it recommended such changes "as would provide for the state as a whole, a permanent tax commission, having general supervisory powers throughout the state, and an officer of each county to be known as county assessor, who would have general supervision of the work of taxation in the counties, such officer, however, to be under the general control of the state commission."<sup>632</sup>

The report of the commission included a proposed bill which revised and rearranged the entire revenue law and embodied the changes recommended by the commission. A bill very similar to that proposed by the tax commission was introduced in the General Assembly, but failed of passage.<sup>633</sup> An attempt was again made in 1915 to secure a revision of the revenue laws and the creation of a permanent State tax commission, but this attempt also ended in failure.<sup>634</sup>

#### THE INHERITANCE TAX

An inheritance tax or an income tax involves the idea of a redistribution of property more directly than does an ordinary property tax levied according to the value of the property held and irrespective of the amount, so that the general acceptance of these forms of taxation indicates a changing attitude toward private property and the right to use it and dispose of it as the owner may please.

Only a few of the States of the Union have as yet provided for the levy of an income tax; at the same time most of them have some form of an inheritance tax. Some of the States levy a direct inheritance tax, but the greater number, of which Iowa is one, levies a collateral inheritance tax only. The revenue commission of 1893 recommended an inheritance tax, but it was not until 1896 that a law providing for such a tax was passed.<sup>635</sup>

The law as passed in 1896 imposed a tax of five per cent on all estates of one thousand dollars or over, after deducting legal debts, passing to collateral heirs or strangers to the blood. Special provisions were made for estates bequeathed for a term of years to lineal descendants and the remainder to a collateral heir, and for the disposal of life estates. The administrative machinery provided was defective, and so the result was more or less of a failure.<sup>636</sup>

A more centralized administrative control was provided

in 1898. Minor amendments were passed in 1900 and in 1902, and the Thirtieth General Assembly imposed a discrimination against non-residents of the United States.<sup>637</sup>

The Thirty-fourth General Assembly completely redrafted the collateral inheritance law in 1911.<sup>638</sup> The new act improved the administrative machinery of the law; while the tax remains the same. That is to say, all property of whatever kind situated in this State which passes to collateral heirs upon the death of the owner is taxed five per cent—except that property passing to aliens, non-residents of the United States, is subject to a tax of twenty per cent of its true value. In case foreign beneficiaries are brothers or sisters of the decedent owner the tax is only ten per cent. Estates of not more than one thousand dollars are exempt as are those of whatever size which pass to direct heirs. Exemptions are also made in favor of bequests for certain charitable and public purposes.

The district court of each county appoints yearly three resident freeholders to appraise all property subject to the inheritance tax. Special appraisers may also be appointed in any given case. The appraised value is required to be the market value of the property. The tax is paid to the State Treasurer and is a lien upon the estate until paid. Unless paid within eighteen months, interest at the rate of eight per cent is added from the date of the death of the decedent. This tax returns to the State treasury a little more than a quarter of a million dollars annually.

#### THE PRESENT REVENUE SYSTEM<sup>639</sup>

The State of Iowa depends almost entirely upon the general property tax for State, county, and municipal revenues. There is a State inheritance tax on collateral inheritances. There are no special corporation taxes except on foreign insurance companies. Corporations are generally assessed by local assessors; but a few are assessed on

their property by the State Executive Council. There have been some recent changes from taxes on gross revenues to those on property.

*The Basis of Assessment and Valuation:*— All property both real and personal not specifically exempt is subject to the general property tax. Indeed, it is an established principle of law that taxation is the rule and exemption from taxation the exception. The Iowa revenue laws, however, provide very liberal exemptions. In addition to public property — that is, property belonging to one of the various units of government — all the property privately owned but devoted to public use and not made the basis of private gain is exempt. This class of property embraces the property of charitable, benevolent, literary, scientific, agricultural, and religious institutions or associations which is devoted solely to the appropriate objects of such associations. The amount of land which may be exempted for this purpose is limited to one hundred and sixty acres.

Liberal exemptions of farm produce and farm animals, machinery, and furniture are provided. Landowners are not allowed to deduct their debts from the value of their real estate, but allowance is made for lands taken up by adjacent roads. Tools of mechanics, funds held by fraternal beneficiary associations, a certain amount of the property of soldiers of the Rebellion, and finally, the polls or estates of persons who are unable to contribute to the public revenue on account of age or infirmity.

In the matter of assessment and valuation the law requires that all the property subject to ad valorem taxation shall be listed at its actual value — which has been interpreted by the courts to mean what the property will bring in the ordinary course of trade and not at a forced sale. The property is then assessed for taxation at twenty-five per cent of its actual value. There are, however, many ex-

ceptions to this provision. Moneys, credits, and corporation shares or stocks, unless exempted from taxation or assessed in some other manner, and excepting shares of national, State, and savings banks, loan and trust companies, and moneyed capital in competition with banks, are taxed at a flat rate of five mills on the dollar of actual valuation, to be assessed and collected where the owner resides. The shares of national, State, and savings banks, the stock of loan and trust companies, and moneyed capital in competition with banks are assessed and taxed at twenty per cent instead of twenty-five per cent of their actual value. The property of private bankers is listed at the aggregate actual value of moneys and credits, less deposits, and the aggregate value of bonds and stocks less the portion thereof otherwise taxed in this State. All other property including real estate is assessed in the usual manner. In listing moneys and credits in general, including the actual value of shares in building and loan associations, the owner is entitled to deduct the amount of his just debts. Moreover, the shares of stock in manufacturing companies are exempt from taxation in case their real estate and personal property, including moneys and credits, have been properly listed. No deductions of debts may be allowed from the shares of banks or from moneyed capital in competition with banks.

The manner of listing varies with the different classes of property. It appears that the general rule is to list real estate where it is located. On the other hand, certain personal property, including moneys and credits, shares of stock in corporations, and bills, notes, and bonds, are listed where the owner lives. There are exceptions to this rule, however, and in many cases the law requires that property be listed by an agent, who may be either a person or a corporation. Real estate is listed every two years and in the alternate years the assessment roll is corrected by adding the value of the improvements made during the preceding

year. Personal property is listed annually. The shares of stock of corporations organized under the Iowa laws are assessed to the owners of such shares at the place where the principal business of the corporation is conducted, unless otherwise provided by law. The amount of capital invested in real estate must be deducted from the shares and assessed where the real estate is located. Finally, it should be noted that corporations are liable for the payment of taxes assessed to the stockholders, unless some other provision is made by law, and they have the necessary authority to recover the amount of such tax.

The revenue law provides special regulations for the assessment of certain classes of property. Merchants and manufacturers are assessed upon the average amount of stock held during the year. Grain, ice, and coal dealers are assessed on the average amount of capital used. Machinery used for manufacturing goods is listed as real estate for the purpose of taxation. The shares of stock of corporations are exempt when the property of the corporation is taxed. Water and gas works, electric light plants, and street railways are assessed where they are located: the actual value of the capital stock over and above that of the listed property is assessed to the owners of such capital stock.

The property enumerated above is all listed by local assessors in the civil townships, towns, and cities of the State, and is subject to review or equalization by township, county, and State boards of review. It does not, however, include all the property subject to ad valorem taxation. The State Executive Council assesses the following items: railroads and railroad property, telegraph and telephone companies, express companies, freight line and equipment companies, electric transmission lines and all similar State-wide public service corporations.

The Executive Council makes the assessment on the basis of reports required by law to be submitted by the various

kinds of corporations. These reports vary in content, but they are in general quite inclusive. In the matter of distribution the general rule is to apportion the tax among the counties on a mileage basis.

*The Equalization of Taxes:*—After the assessment is completed and the assessment rolls are made out there follows the work of review or equalization. The township trustees act as a local board of review and adjust assessments between individuals; they also hear appeals; and individuals may appeal from their decision to the district court. The board of supervisors acts as a county board of review and adjusts the assessments between townships, towns, and cities of the county. Appeals from their decisions also lie to the district court. The Executive Council constitutes the State board of review and adjusts the assessments among the several counties. It may add to or deduct from each class of property by counties so as to make the assessments equal. It will be noted that the local board of review represents the only means of correcting individual assessments provided by the revenue laws of the State. There are from sixteen to thirty such local boards of review in the average county of Iowa. “This means that the township or other minor civil division is the important unit of local government from the standpoint of assessment on the one hand and the review or correction of individual assessments on the other. The county board of supervisors under such a system is absolutely powerless to bring about anything approaching uniformity among the minor subdivisions of a county. In fact, no adequate authority is now provided in the revenue laws of Iowa whereby the county is able to guarantee uniformity of assessment within its borders.”<sup>640</sup>

*The Tax Rate:*—The General Assembly determines the total amount to be raised for State purposes. The Executive Council computes the per cent on the valuation of the taxable property necessary to raise such an amount and the levy is made by the county boards of supervisors. For county purposes the county board of supervisors determines the rates for the several purposes, which must be within the maximum fixed by statute. In municipal corporations the rate is fixed by the city council, but limited by statute as to maximum rate. No attempt will be made in this connection to enumerate the different rates which have been levied for any particular year, but it seems proper to note that the total tax levied for all purposes—State, county, and local—for the year 1915 amounted to more than \$50,000,000, and that the average rate was 49.36 mills.<sup>641</sup>

*The Collection of Taxes:*—Taxes are collected by the county treasurers. Semi-annual payment is optional; they may be all paid between the first Monday in January and March first; or one-half may be paid before March first and the other half before September first. In case no payment is made before April first, the whole amount becomes delinquent. Delinquent taxes draw interest at the rate of one per cent per month. Taxes are a lien on the property on which they are levied and may be collected by distress and sale. County and municipal taxes are collected in the same manner.

#### POLL TAXES

The State levies no poll tax, but there is a county poll tax of fifty cents on each male resident over twenty-one years of age. Cities and towns, moreover, have power to require all able-bodied male residents between the ages of twenty-one and forty-five years to perform or provide a substitute to perform two days labor upon the streets or public



grounds. This labor tax is commutable at a maximum of one dollar and fifty cents a day. Road supervisors are to require two days labor on the roads of all able-bodied men between the ages of twenty-one and forty-five years. Members of the Iowa National Guard and of fire companies are exempt from these taxes.

#### BUSINESS TAXES, LICENSES, AND FEES

Reference has been made to the inheritance tax, corporation taxes, and the other special forms of taxation in another connection. It remains only to indicate something of the great variety of business taxes, licenses, and fees which are levied in the State. Business taxes are imposed upon retailers of cigarettes, itinerant physicians, drug vendors, and peddlers. Fees are charged for the examination of physicians, pharmacists, and dentists; for the filing of articles of incorporation and the application to do business; for the registration of motor vehicles; and for the examination of banks and the settlement of estates. Licenses are required, for which fees are charged, for hunting, for operating milk testing machines, and for selling milk. The foregoing are simply a few of the typical taxes, licenses, and fees.<sup>642</sup>

#### RECAPITULATION

This brief review of tax legislation in Iowa shows that the fundamentals of our revenue system are the ad valorem principle of listing property; the assessment of general property by township, town, or city; township, county, and State review or equalization; State assessment of the property of various public service corporations; and special forms of taxation for certain classes of property. It shows, moreover, that the first three fundamentals enumerated — the ad valorem principle of listing property, the assessment of general property by township, town or city, and town-

ship, county, and State review or equalization, have been retained practically unchanged throughout almost the whole period of the State's history, without regard for the ever-changing economic and social conditions.

The general property tax, which is the most distinctive feature of our revenue system, was taken from earlier jurisdictions and made the basis of our revenue system by the first Legislative Assembly of the Territory of Iowa. The county and township systems of assessment alternated during the Territorial and early State periods, but the township system was finally established permanently in 1858. In the matter of equalization many different plans have been tried. The present system of township, county, and State review was established in 1870. The levy and collection of taxes has always been a county function. The levy has always been made, theoretically at least, upon the actual value of the property; but there has been much protest and undervaluation, and the *Code of 1897*, which provides for assessment of property on the basis of twenty-five per cent of its value, still requires the listing of property at its actual cash value.

The revenue system of the State has not proved successful. It has, of course, always been possible to raise the necessary revenue; but in order to be a success a revenue system must be just, and a just system must provide for equality or uniformity and universality of taxation. In regard to the Iowa revenue system the tax commission of 1912 says in part that "the more one investigates the tax question in general, the less he is inclined to criticise any particular official or board, beginning with the local assessor and ending with the State Board of Review, and the more he is compelled to realize that the primary fault is with the system itself, which by its provisions is almost entirely ex officio in its personnel, and, therefore, inefficient in its actual operation."<sup>643</sup>

An examination of the tax legislation of more than three-quarters of a century in Iowa seems to justify the above arraignment. It appears that in the matter of providing a revenue system Iowa has not kept abreast of the needs of the times. The jurisdictions from which Iowa borrowed the fundamentals of her revenue system have changed and improved their systems. Neighboring States have met with the same difficulties which Iowa encountered and have developed satisfactory systems. Yet Iowa retains her old and unsatisfactory system, which has remained practically unchanged for more than fifty years. That the present system is inadequate has been recognized by the State legislature in the creation of the special tax commissions of 1893 and of 1911. The legislature has, however, consistently refused to enact into law the recommendations of these commissions.<sup>844</sup>



## NOTES AND REFERENCES



## NOTES AND REFERENCES

### INTRODUCTION

- <sup>1</sup> Garner's *Introduction to Political Science*, p. 325.  
<sup>2</sup> Garner's *Introduction to Political Science*, pp. 289-298.  
<sup>3</sup> Hart in the *Cyclopedia of American Government*, Vol. I, p. 189.  
<sup>4</sup> See Eliot's *The Conflict Between Individualism and Collectivism in a Democracy*, pp. 93-95.  
<sup>5</sup> McClain's *Constitutional Law in the United States*, pp. 81-89.  
<sup>6</sup> See Eliot's *The Conflict Between Individualism and Collectivism in a Democracy*, pp. 95-130.

### CHAPTER I

<sup>7</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, pp. 6, 7.

<sup>8</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 231-239; *Laws of the Territory of Iowa*, 1841-1842, ch. 79; *Laws of Iowa*, 1846-1847, ch. 45, joint resolutions 14, 17; *Laws of Iowa* (extra session), 1848, ch. 42; *Laws of Iowa*, 1848-1849, joint resolutions 11, 30, memorials 2, 6, ch. 7; *Laws of Iowa* (special), 1860, ch. 10; *Laws of Iowa*, 1866, ch. 41; *Laws of Iowa*, 1868, joint resolution 13; *Laws of Iowa*, 1890, joint resolution 14.

For other legislation pertaining to navigation see *Laws of Iowa*, 1896, ch. 120; *Laws of Iowa*, 1902, ch. 210; *Laws of Iowa*, 1909, ch. 258.

<sup>9</sup> *Laws of Iowa*, 1846-1847, joint resolutions 14, 17; *Laws of Iowa*, 1848-1849, joint resolutions 11, 14, 30, memorials 2, 6; *Laws of Iowa*, 1866, joint resolution 14; *Laws of Iowa*, 1868, joint resolutions 8, 9, 13; *Laws of Iowa*, 1880, joint resolution 14; *Laws of Iowa*, 1882, joint resolution 4; *Laws of Iowa*, 1894, memorial, p. 207.

<sup>10</sup> *Laws of Iowa*, 1888, ch. 107; *Laws of Iowa*, 1900, ch. 84; *Laws of Iowa*, 1909, ch. 149; *Laws of Iowa*, 1911, ch. 112.

<sup>11</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 67, 447. For other regulatory acts relating to boats and vessels see *Laws of the Territory of Wisconsin*, 1836-1838, pp. 232, 485; *Laws of the Territory of Iowa*, 1845, ch. 23; *Laws of Iowa*, 1846-1847, ch. 97.

<sup>12</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 339, 340.

<sup>13</sup> *Laws of the Territory of Iowa, 1839-1840*, joint resolution 4, p. 148; *United States Statutes at Large*, Vol. IX, p. 77.

<sup>14</sup> Concerning this first resolution, see *Laws of Iowa, 1846-1847*, joint resolution 2, ch. 113; *Report of the Register of the State Land Office, 1865*, p. 31. For other legislation relative to the Des Moines improvement see *Laws of the Territory of Iowa, 1838-1839*, p. 339; *Laws of the Territory of Iowa, 1839-1840*, joint resolution 4; *Laws of Iowa (extra session), 1848*, ch. 41; *Laws of Iowa, 1848-1849*, chs. 7, 85, memorial 1; *Laws of Iowa, 1850-1851*, chs. 58, 63, joint resolution 1; *Laws of Iowa, 1852-1853*, chs. 32, 103, joint resolutions 8, 9; *Laws of Iowa, 1854-1855*, ch. 117; *Laws of Iowa, 1856-1857*, ch. 222; *Laws of Iowa, 1858*, chs. 99, 148, joint resolution 4; *Laws of Iowa (special), 1860*, chs. 16, 35, 63, 91; *Laws of Iowa, 1862*, joint resolution 19; *Laws of Iowa, 1864*, ch. 108; *Laws of Iowa, 1866*, chs. 22, 41, 121, concurrent resolution 3, p. 182; *Laws of Iowa, 1868*, ch. 36; *Laws of Iowa, 1870*, ch. 104, joint resolution 20; *Laws of Iowa (local), 1872*, ch. 7; *Laws of Iowa, 1874*, joint resolution 3; *Laws of Iowa, 1880*, joint resolution 3; *Laws of Iowa, 1882*, joint resolution 5; *Laws of Iowa, 1884*, joint resolution 14.

The *Revision of 1860* contains the collected laws relative to the Des Moines River Improvement prior to 1861, pp. 889-916. See also *Iowa Land Office Reports, 1850-1877*.

<sup>15</sup> A copy of this contract is printed in the Appendix to the *House Journal, 1855*, pp. 39-47.

<sup>16</sup> *Laws of Iowa, 1858*, joint resolution 4; *Report of the Register of the State Land Office, 1865*, pp. 42, 43; *Laws of Iowa, 1858*, ch. 99; *Laws of Iowa (special), 1860*, ch. 16.

<sup>17</sup> *Laws of Iowa, 1866*, concurrent resolution 3, pp. 182, 183; ch. 41.

<sup>18</sup> For laws and resolutions relative to a canal around the lower rapids in the Mississippi River see *Laws of Iowa, 1848-1849*, joint resolution 17; *Laws of Iowa, 1850-1851*, joint resolution 8; *Laws of Iowa, 1855*, joint resolution 3; *Laws of Iowa, 1868*, ch. 7; *Laws of Iowa, 1870*, joint resolution 16.

For resolutions and memorials favoring waterways from the Mississippi River to the Atlantic Ocean see *Laws of Iowa, 1864*, ch. 58, joint resolution 4; *Laws of Iowa, 1868*, joint resolutions 10, 19; *Laws of Iowa, 1870*, joint resolutions 21, 22; *Laws of Iowa, 1872*, joint resolutions 4, 12; *Laws of Iowa, 1874*, joint resolutions 1, 12, 16; *Laws of Iowa, 1876*, joint resolutions 1, 2, 6; *Laws of Iowa, 1878*, joint resolution 7; *Laws of Iowa, 1882*, joint resolutions 2, 6; *Laws of Iowa, 1884*, joint resolution 3; *Laws of Iowa, 1890*, joint resolution 3, p. 182; *Laws of Iowa, 1894*, joint resolution 3, p. 203; *Laws of Iowa, 1896*, joint resolution 3.

<sup>19</sup> For a good account of ferry legislation in the Territory of Iowa see Van der Zee's *The Roads and Highways of Territorial Iowa* in *The Iowa Journal of History and Politics*, Vol. III, pp. 181-191. *Laws of the Territory of Wisconsin*



*sin*, 1836, ch. 38; *Laws of the Territory of Wisconsin*, 1838, chs. 41, 43, 64, 82, 91; *Laws of the Territory of Wisconsin* (special session), 1838, chs. 8, 22, 25.

For legislation relative to ferries during the Territorial period see *Laws of the Territory of Iowa*, 1838-1839, pp. 205-216; *Laws of the Territory of Iowa*, 1839-1840, chs. 21, 31, 32, 58, 79, 92; *Laws of the Territory of Iowa* (extra session), 1840, ch. 8; *Laws of the Territory of Iowa*, 1840-1841, chs. 7, 15, 34, 35, 39, 40, 55, 63, 99; *Laws of the Territory of Iowa*, 1841-1842, chs. 9, 22, 26, 27, 43, 58, 66, 80, 82, 106; *Laws of the Territory of Iowa* (local), 1842-1843, chs. 24, 36, 44, 50, 51, 66; *Revised Statutes of Iowa*, 1842-1843, chs. 72, 73; *Laws of the Territory of Iowa*, 1843-1844, chs. 46, 48, 52, 61, 75, 76, 113; *Laws of the Territory of Iowa*, 1845, ch. 66; *Laws of the Territory of Iowa*, 1845-1846, ch. 52.

<sup>20</sup> *Laws of the Territory of Iowa*, 1838, p. 208.

<sup>21</sup> *Laws of Iowa*, 1846-1847, ch. 108.

Special laws authorizing the establishment of ferries during the State period provided for seven ferries across the Mississippi, three across the Missouri, two across the Cedar, and four across the Des Moines.—*Laws of Iowa*, 1846-1847, chs. 12, 67, 108; *Laws of Iowa* (extra session), 1848, chs. 20, 39, 64, 72, 73, 74; *Laws of Iowa*, 1848-1849, chs. 1, 14, 23, 28, 41, 50, 60, 68, 72, 76; *Laws of Iowa*, 1850-1851, ch. 12; *Code of 1851*, Title XI, ch. 45; *Laws of Iowa*, 1856-1857, ch. 212.

<sup>22</sup> *Laws of Iowa*, 1858, ch. 157, sec. 69.

<sup>23</sup> *Laws of the Territory of Iowa*, 1840-1841, ch. 94; *Laws of the Territory of Iowa*, 1843-1844, ch. 123.

<sup>24</sup> *Laws of Iowa* (extra session), 1848, ch. 25; *Laws of Iowa*, 1848-1849, ch. 126; *Laws of Iowa*, 1850-1851, ch. 39; *Code of 1851*, secs. 569, 726-734.

<sup>25</sup> *Laws of Iowa*, 1854-1855, chs. 99, 165, 168; *Laws of Iowa* (extra session), 1856, ch. 41; *Laws of Iowa*, 1856-1857, chs. 99, 154; *Laws of Iowa*, 1858, ch. 27.

<sup>26</sup> *Laws of Iowa*, 1858, ch. 93; *Laws of Iowa*, 1855, ch. 168; *Laws of Iowa*, 1856-1857, ch. 212; *Laws of Iowa*, 1862, ch. 112; *Laws of Iowa*, 1864, ch. 130; *Laws of Iowa*, 1866, ch. 87.

<sup>27</sup> *Laws of Iowa*, 1868, ch. 145; *Laws of Iowa*, 1870, chs. 38, 84; *Laws of Iowa* (general), 1872, chs. 1, 28.

<sup>28</sup> *Laws of the Territory of Iowa* (extra session), 1845, joint resolution 17; *Laws of the Territory of Iowa*, 1845-1846, joint resolutions 1, 3, 5; *Laws of Iowa*, 1848-1849, joint resolution 2; *Laws of Iowa*, 1850-1851, joint resolutions 9, 22, and memorial 3; *Laws of Iowa*, 1855, joint resolution 20; *Laws of Iowa*, 1872, joint resolutions 1, 20.

<sup>29</sup> For a detailed study of road legislation in Iowa see Brindley's *History of Road Legislation in Iowa*; and Van der Zee's *The Roads and Highways of*

*Territorial Iowa* in *The Iowa Journal of History and Politics*, Vol. III, pp. 175-225.

<sup>30</sup> *Laws of the Territory of Wisconsin*, 1836, ch. 20.

<sup>31</sup> *Laws of the Territory of Wisconsin*, 1837-1838, chs. 20, 24, 25, 57.

<sup>32</sup> See Brindley's *History of Road Legislation in Iowa*, Chapter II.

<sup>33</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, p. 82.

<sup>34</sup> *Laws of the Territory of Iowa*, 1838-1839, p. 428.

<sup>35</sup> For typical acts see *Laws of the Territory of Iowa*, 1838-1839, pp. 427, 430, 431. The whole list may be obtained by an examination of the bound volumes of the session laws for the period under consideration.

<sup>36</sup> For legislation on the obstruction of roads see *Laws of the Territory of Iowa*, 1838-1839, p. 165; *Laws of the Territory of Iowa*, 1843-1844, ch. 18; *Laws of the Territory of Iowa*, 1845, ch. 27; *Laws of the Territory of Iowa*, 1845-1846, ch. 38.

For legislation concerning the duties of supervisors see *Laws of the Territory of Iowa*, 1839-1840, ch. 80; *Laws of the Territory of Iowa*, 1841-1842, ch. 32.

For legislation concerning the opening and the regulating of roads see *Laws of the Territory of Iowa*, 1839-1840, ch. 91; *Laws of the Territory of Iowa*, 1841-1842, ch. 35; *Revised Statutes of Iowa*, 1842-1843, ch. 125; *Laws of the Territory of Iowa* (extra session), 1844, ch. 11; *Laws of the Territory of Iowa*, 1845-1846, chs. 35, 40.

For legislation concerning the organization of townships see *Laws of the Territory of Iowa*, 1839-1840, ch. 37, secs. 21-23; *Revised Statutes of Iowa*, 1842-1843, ch. 152, secs. 7, 11, 12, 20-22; *Laws of the Territory of Iowa* (extra session), 1845, ch. 11, secs. 6-10.

For legislation on the subject of taxation for road purposes see *Laws of the Territory of Iowa*, 1841-1842, ch. 83; *Revised Statutes of Iowa*, 1842-1843, ch. 151; *Laws of the Territory of Iowa*, 1843-1844, ch. 19; *Laws of the Territory of Iowa* (extra session), 1845, ch. 26. See also the *Register and Leader* for August 17, 1915.

<sup>37</sup> For an account of the aid given by the Federal government for military and Territorial roads in Iowa, see Van der Zee's *The Roads and Highways of Territorial Iowa* in *The Iowa Journal of History and Politics*, Vol. III, pp. 175-225.

*Laws of the Territory of Iowa*, 1839-1840, joint resolution 8; *Laws of the Territory of Iowa*, 1845-1846, joint resolutions 1, 8; *Laws of Iowa*, 1846-1847, joint resolutions 12, 19; *Laws of Iowa*, 1848-1849; joint resolution 40; *Laws of Iowa*, 1850-1851, joint resolutions 3, 5, memorials 2, 6.

<sup>38</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 254-263.

<sup>39</sup> For legislation providing for graded or plank roads see *Laws of Iowa*, 1848-1849, chs. 33, 96, 131; *Laws of Iowa*, 1850-1851, chs. 13, 24, 35, 41, 48, 59, 64, 65, 78; *Laws of Iowa*, 1852-1853, ch. 22; *Laws of Iowa*, 1858, ch. 78.

<sup>40</sup> *Laws of Iowa*, 1862, ch. 61.

<sup>41</sup> For typical acts establishing State roads see *Laws of Iowa*, 1852-1853, ch. 106; *Laws of Iowa*, 1854-1855, ch. 160.

<sup>42</sup> *Laws of Iowa*, 1846-1847, ch. 85; *Laws of Iowa* (extra session), 1848, ch. 44; *Laws of Iowa*, 1848-1849, ch. 102.

<sup>43</sup> *Code of 1851*, ch. 38. For the date of taking effect see *Code of 1851*, p. 472. See also Brindley's *History of Road Legislation in Iowa*, Chapter IV.

<sup>44</sup> *Laws of Iowa*, 1852-1853, ch. 48.

<sup>45</sup> See Brindley's *History of Road Legislation in Iowa*, Chapter V, pp. 99-125.

<sup>46</sup> *Constitution of Iowa*, 1857, Art. III, sec. 30.

<sup>47</sup> *Revision of 1860*, Title III, ch. 22, art. 11.

For a complete list of the laws relating to roads enacted during this period, 1860-1870, see *Revision of 1860*, pp. 53-57, 133-146; *Laws of Iowa*, 1862, chs. 96, 163; *Laws of Iowa*, 1864, chs. 76, 83; *Laws of Iowa*, 1866, chs. 87, 127; *Laws of Iowa*, 1868, chs. 35, 47, 76, 100, 110, 148; *Laws of Iowa*, 1870, chs. 147, 148. See also 25 Iowa 540 in which ch. 127 of the *Laws of Iowa*, 1866, was held to be unconstitutional.

<sup>48</sup> The several acts passed during this period indicate the general tendency toward decentralization. See *Laws of Iowa*, 1854-1855, chs. 52, 147; *Laws of Iowa*, 1856-1857, ch. 130; *Laws of Iowa*, 1858, chs. 149, 154.

<sup>49</sup> Brindley's *History of Road Legislation in Iowa*, p. 176; *Laws of Iowa*, 1870, ch. 148.

For a more complete discussion see Brindley's *History of Road Legislation in Iowa*, pp. 155-183.

<sup>50</sup> For road legislation enacted between 1870 and 1882 see *Laws of Iowa*, 1870, chs. 20, 38, 84, 86, 148, 179; *Laws of Iowa* [public laws], 1872, chs. 1, 13, 28, 94; *Code of 1873*, pp. 161-178; *Laws of Iowa*, 1874, chs. 5, 17, 19, 34, 47, 51; *Laws of Iowa*, 1876, chs. 21, 29, 80, 167; *Laws of Iowa*, 1878, chs. 40, 52, 163; *Laws of Iowa*, 1880, chs. 32, 36, 45, 46, 52, 88, 178; *Laws of Iowa*, 1882, chs. 41, 51, 63, 80, 109, 132, 158.

<sup>51</sup> For a more complete discussion see Brindley's *History of Road Legislation in Iowa*, Chapter VIII.

<sup>52</sup> *Laws of Iowa*, 1884, ch. 200.

<sup>53</sup> For the road legislation enacted between 1884 and 1902 see *Laws of Iowa*, 1884, chs. 13, 147, 197, 200; *Laws of Iowa*, 1886, chs. 13, 55, 85, 87; *Laws of*

*Iowa*, 1888, chs. 16, 92; *Laws of Iowa*, 1890, chs. 2, 21; *Laws of Iowa*, 1892, chs. 22, 40, 45, 68, 74; *Laws of Iowa*, 1894, chs. 18, 20, 21, 88; *Laws of Iowa*, 1896, chs. 42, 43, 44, 45, 47, 48, 78; *Code of 1897*, see index under "Roads", pp. 2321, 2322; *Laws of Iowa*, 1898, chs. 27, 38, 39, 159; *Laws of Iowa*, 1900, ch. 139; *Laws of Iowa*, 1902, chs. 42, 53, 64, 65, 78, 81.

<sup>54</sup> *Laws of Iowa*, 1894, ch. 22.

<sup>55</sup> Brindley's *History of Road Legislation in Iowa*, p. 206.

<sup>56</sup> *Laws of Iowa*, 1904, ch. 105; Brindley's *History of Road Legislation in Iowa*, p. 219.

<sup>57</sup> *Laws of Iowa*, 1909, ch. 95.

<sup>58</sup> *Laws of Iowa*, 1911, ch. 72.

<sup>59</sup> *Laws of Iowa*, 1913, ch. 122, sec. 3.

<sup>60</sup> *Laws of Iowa*, 1913, chs. 122, 123, 133.

<sup>61</sup> For the road laws enacted during the period between 1904 and 1915 inclusive see *Laws of Iowa*, 1904, chs. 50, 52, 53, 68, 105; *Laws of Iowa*, 1906, chs. 56, 57, 58, 59, 62, 63; *Laws of Iowa*, 1907, chs. 36, 64, 65, 66, 67, 68, 69, 97, concurrent resolutions 3, 4, pp. 290, 291; *Laws of Iowa*, 1909, chs. 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103; *Laws of Iowa*, 1911, chs. 24, 69, 70, 71, 72; *Laws of Iowa*, 1913, chs. 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 157, 319; *Supplemental Supplement to the Code of Iowa*, 1915, Title VII, ch. 1, sec. 1303, paragraphs 4, 5, p. 106, Title VIII, chs. 1, 1-A, 2, 2-B, Title X, chs. 2-B, 4.

<sup>62</sup> *Laws of Iowa*, 1917, chs. 3, 6, 16, 30, 161, 172, 205, 212, 249, 316, 335, 338, 376, 398, 410, 417.

<sup>63</sup> *Laws of Iowa*, 1917, ch. 6.

<sup>64</sup> *Laws of Iowa*, 1917, ch. 316.

<sup>65</sup> *Laws of Iowa*, 1917, ch. 249. See also Iowa State Highway Commission *Service Bulletin*, April-May, 1917, pp. 5-8. (Vol. V, Nos. 4, 5.)

<sup>66</sup> See *First Annual Report of the Iowa State Highway Commission*, 1915, pp. 66, 67.

## CHAPTER II

<sup>67</sup> *Constitution of Iowa*, 1846, Art. VIII, Sec. 2.

<sup>68</sup> *Laws of Iowa*, 1846-1847, ch. 81.

<sup>69</sup> *Laws of Iowa* (extra session), 1848, ch. 51.

<sup>70</sup> For memorials and joint resolutions asking Congress for land grants to railroads see *Laws of Iowa* (extra session), 1848, joint resolution 5, memorial 3; *Laws of Iowa*, 1848-1849, joint resolutions 5, 15; *Laws of Iowa*, 1850-

1851, memorials 4, 5; *Laws of Iowa*, 1852-1853, joint resolutions 2, 3, memorials 1, 3; *Laws of Iowa* (extra session), 1856, joint resolutions 3, 6, 7, 8; *Laws of Iowa*, 1856-1857, joint resolutions 2, 19, 27; *Laws of Iowa*, 1860, joint resolutions 1, 2; *Laws of Iowa*, 1864, joint resolution 12; *Laws of Iowa*, 1866, joint resolutions 4, 6, 7, 8, 11.

<sup>71</sup> *Laws of Iowa*, 1848-1849, ch. 75.

<sup>72</sup> For acts granting rights of way see *Laws of Iowa* (extra session), 1848, ch. 51; *Laws of Iowa*, 1850-1851, chs. 4, 34, 46, 56, 57, 66, 85.

For the general law providing for the mode of obtaining a right of way see *Laws of Iowa*, 1852-1853, ch. 31.

<sup>73</sup> See *Code of 1851*, ch. 46, p. 120.

<sup>74</sup> *Laws of Iowa*, 1852-1853, ch. 31; Larrabee's *The Railroad Question*, p. 319; *Laws of Iowa*, 1848-1849, resolution 5; *Laws of Iowa*, 1850-1851, ch. 2.

<sup>75</sup> *Laws of Iowa*, 1856-1857, chs. 153, 239, 241, 243, 252; *Eighth Census of the United States, 1860* (Population), p. 133.

<sup>76</sup> *Revision of 1860*, ch. 55, art. 8, p. 223.

<sup>77</sup> *Laws of Iowa*, 1868, ch. 48.

<sup>78</sup> *Laws of Iowa*, 1870, ch. 102.

<sup>79</sup> For acts relative to voting taxes to aid in railroad construction see *Laws of Iowa*, 1854-1855, ch. 128; *Laws of Iowa*, 1856 (extra session), ch. 29; *Laws of Iowa*, 1856-1857, chs. 153, 178, 186, 205, 239, 241, 243, 252; *Laws of Iowa*, 1858, chs. 66, 132; *Revision of 1860*, ch. 55, art. 8; *Laws of Iowa*, 1858, ch. 48; *Laws of Iowa*, 1870, ch. 102; *Laws of Iowa* (general), 1872, chs. 2, 10, 50, 81; *Laws of Iowa* (local), 1874, chs. 37, 48, 54; *Laws of Iowa*, 1876, ch. 123; *Laws of Iowa*, 1878, chs. 49, 87, 157, 173; *Laws of Iowa*, 1880, chs. 96, 121, 144, 192; *Laws of Iowa*, 1882, ch. 102; *Laws of Iowa*, 1884, ch. 159; *Laws of Iowa*, 1890, ch. 19; *Laws of Iowa*, 1892, ch. 18; *Laws of Iowa*, 1894, ch. 27; *Laws of Iowa*, 1902, chs. 85, 86; *Laws of Iowa*, 1911, chs. 91, 92; *Laws of Iowa*, 1913, chs. 168, 169.

<sup>80</sup> *United States Statutes at Large*, Vol. 11, p. 9.

<sup>81</sup> *Laws of Iowa* (extra session), 1856, ch. 1.

<sup>82</sup> *Laws of Iowa* (special acts), 1860, ch. 37.

<sup>83</sup> *Laws of Iowa*, 1856-1857, ch. 182.

<sup>84</sup> *Laws of Iowa*, 1858, ch. 99.

<sup>85</sup> Larrabee's *The Railroad Question*, p. 329.

<sup>86</sup> In the *Report of the Transactions of the Land Department of Iowa*, 1901, table 31, p. 55, it appears that the total amount of land concessions by acts of Congress to the State of Iowa for railroad purposes from the year 1856 to June 30, 1901, was 4,802,878.5 acres. In addition to this amount the Des

Moines Valley Railroad Company also received cash indemnity for 44,157.66 acres.

The *Report of the Railroad Commissioners of Iowa*, 1893, gives the total acreage granted to railroads in Iowa as 3,724,801.52 acres. The selling price of the land is given in this same report on pp. 12, 13.

Land concessions by Congress to the State of Iowa for railroad purposes from the year 1850 to June 30, 1911, are as follows:

| RAILROAD COMPANY                     | ACRES                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Burlington and Missouri River.....   | 389,990.11                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Chicago, Rock Island & Pacific.....  | 483,214.36                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Cedar Rapids and Missouri River..... | <div style="display: inline-block; vertical-align: middle;"> <div style="display: inline-block; vertical-align: middle;"> <div style="display: inline-block; vertical-align: middle;">161,532.81</div> <div style="display: inline-block; vertical-align: middle;">922,813.67</div> <div style="display: inline-block; vertical-align: middle;">244,022.96</div> </div> <div style="display: inline-block; vertical-align: middle; font-size: 3em;">}</div> </div> |
| Dubuque & Sioux City.....            | 556,406.74                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Iowa Falls & Sioux City.....         | 683,057.34                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Des Moines Valley.....               | 840,091.36                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Chicago, Milwaukee & St. Paul.....   | 326,216.10                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| McGregor & Missouri River. }         | 322,412.81                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Sioux City & St. Paul..... }         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Total.....                           | 4,929,758.26                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

This sum includes 222,977.56 acres situated in the old Des Moines River grant of August 8, 1846, which should be deducted (*Wolcott v. Des Moines Co.*, 5 Wall. 631). This leaves a total of 4,706,780.70 acres.—*Reports of the Department of the Interior*, 1911, *Administrative Reports*, Vol. I, p. 133.

<sup>87</sup> Larrabee's *The Railroad Question*, p. 329.

<sup>88</sup> A complete collection of the acts of Congress relative to railroad land grants in Iowa may be found in the *Report of the Transactions of the Land Department of Iowa* for 1901 or for 1908. A collection of the acts passed by the General Assemblies of Iowa relative to land grants to railroads in Iowa, the disposition of the same and other related matters, may be found in these same reports for 1901 or 1908.

For the acts of the General Assemblies on the subject see *Laws of Iowa* (extra session), 1856, ch. 1; *Laws of Iowa*, 1856–1857, chs. 129, 182; *Laws of Iowa* (special laws), 1860, chs. 17, 25, 36, 37; *Laws of Iowa*, 1862, ch. 153; *Laws of Iowa*, 1866, chs. 121, 134, 144; *Laws of Iowa*, 1868, chs. 10, 13, 16, 26, 42, 58, 124; *Laws of Iowa*, 1870, ch. 73; *Laws of Iowa* (general), 1872, ch. 83; *Code of 1873*, ch. 5, sec. 93 of Title II; *Laws of Iowa* (public), 1874, ch. 34; *Laws of Iowa*, 1876, ch. 96; *Laws of Iowa*, 1878, chs. 21, 30; *Laws of Iowa*, 1880, chs. 167, 186; *Laws of Iowa*, 1882, chs. 107, 123; *Laws of Iowa*, 1884, chs. 69, 71.

<sup>89</sup> See *Reports of the State Land Office* and the *Reports of the Railroad Commissioners of Iowa*.

- <sup>90</sup> *Laws of Iowa* (extra session), 1856, ch. 1, p. 5.
- <sup>91</sup> *Eighth Annual Report of the Board of Railroad Commissioners of Iowa*, p. 33.
- <sup>92</sup> *Laws of Iowa*, 1854-1855, ch. 159.
- <sup>93</sup> *Laws of Iowa*, 1856-1857, chs. 174, 216, 225; *Laws of Iowa*, 1858, chs. 85, 89.
- <sup>94</sup> *Code of 1851*, sec. 689; *Laws of Iowa*, 1858, ch. 85.
- <sup>95</sup> *Laws of Iowa*, 1855, memorial 8; *Laws of Iowa*, 1856-1857, joint resolutions 11, 12, 15; *Laws of Iowa*, 1858, ch. 115.
- <sup>96</sup> *Laws of Iowa*, 1858, ch. 80; *Laws of Iowa*, 1860 (special), ch. 103. For other miscellaneous, amendatory, and special acts see *Laws of Iowa* (extra session), 1856, ch. 25; *Laws of Iowa*, 1856-1857, chs. 22, 32, 183; *Laws of Iowa*, 1858, ch. 66.
- <sup>97</sup> *Laws of Iowa*, 1862, chs. 153, 158, 159, 169; *Laws of Iowa*, 1864, chs. 20, 44, 86, joint resolution 11; *Laws of Iowa*, 1866, chs. 102, 113; *Laws of Iowa*, 1868, chs. 13, 79, 117, 172, joint resolution 14; *Laws of Iowa*, 1870, chs. 62, 91, 121, 125, 139, 165, joint resolution 9; *Laws of Iowa* (general), 1872, chs. 6, 33, 39, 65, 111, 119, joint resolutions 3, 8; *Laws of Iowa* (adjourned session), 1873, joint resolutions 2, 12; *Code of 1873*, secs. 1297, 1302, 1305, 1323.
- <sup>98</sup> *Laws of Iowa* (public), 1874, ch. 68.
- <sup>99</sup> *Laws of Iowa*, 1878, ch. 77. For a very interesting account of the repeal of this law see Aldrich's *The Repeal of the Granger Law in Iowa* in *The Iowa Journal of History and Politics*, Vol. III, pp. 256-270.
- <sup>100</sup> See *Laws of Iowa* (general), 1874, chs. 5, 6, 18, 20, 34, 47, 65; *Laws of Iowa* (local), 1874, chs. 34, 38, joint resolutions 4, 9, 13, 19; concurrent resolution 2; *Laws of Iowa*, 1876, chs. 68, 118, 133, 148, 153, 154; *Laws of Iowa*, 1878, chs. 114, 126, 152, 156; *Laws of Iowa*, 1880, chs. 96, 128, joint resolution 2.
- <sup>101</sup> *Laws of Iowa*, 1878, ch. 77.
- <sup>102</sup> *Laws of Iowa*, 1878, ch. 77.
- <sup>103</sup> For the law making the change from a weak commission to a strong commission see *Laws of Iowa*, 1888, ch. 28.
- <sup>104</sup> *Laws of Iowa*, 1884, ch. 133.
- <sup>105</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, pp. 73-76.
- <sup>106</sup> *Laws of Iowa*, 1888, ch. 28.
- <sup>107</sup> For legislation relative to the board of railroad commissioners see *Laws of Iowa*, 1884, chs. 24, 133, joint resolution 4; *Laws of Iowa*, 1888, chs. 28, 29,

31; *Laws of Iowa*, 1890, ch. 17; *Laws of Iowa*, 1892, chs. 25, 27; *Laws of Iowa*, 1896, ch. 34; *Laws of Iowa*, 1898, ch. 51; *Laws of Iowa*, 1907, chs. 106, 107, 108, 110, 111, 115, 205; *Laws of Iowa*, 1909, chs. 127, 129; *Laws of Iowa*, 1911, chs. 95, 194, 195; *Laws of Iowa*, 1913, chs. 173, 174, 175, 178, 334; *Code of 1897*, secs. 2034-2157; *Laws of Iowa*, 1917, chs. 82, 93, 245, 260, 298, 315.

<sup>108</sup> For the acts relative to the Commerce Counsel see *Laws of Iowa*, 1911, ch. 94; *Laws of Iowa*, 1913, chs. 176, 177.

<sup>109</sup> For railroad legislation from 1888 to 1917, inclusive, other than that relative to the board of railroad commissioners, see *Laws of Iowa*, 1888, chs. 16, 30, 31, 32, 57, 96, 186; *Laws of Iowa*, 1890, chs. 18, 19, 20, 21, 124; *Laws of Iowa*, 1892, chs. 18, 22, 23, 25, 26, 27; *Laws of Iowa*, 1894, chs. 7, 23, 24, 25, 26, 27, 28, joint resolution 7; *Laws of Iowa*, 1896, chs. 34, 35, 36; *Laws of Iowa*, 1898, chs. 49, 50, 51; *Laws of Iowa*, 1900, chs. 44, 70, 71, 180; *Laws of Iowa*, 1902, chs. 58, 60, 61, 62, 79, 81, 83, 84, 85, 86, 87, joint resolution 14; *Laws of Iowa*, 1904, chs. 46, 47, 68, 74, 75, 76; *Laws of Iowa*, 1906, chs. 9, 87, 88, 89, 90, 215; *Laws of Iowa*, 1907, chs. 40, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 163, 205; *Laws of Iowa*, 1909, chs. 51, 59, 118, 124, 125, 126, 127, 128, 129, 130, 141, 152, 219; *Laws of Iowa*, 1911, chs. 76, 87, 90, 91, 92, 93, 94, 95, 96, 155, 163, 194, 195; *Laws of Iowa*, 1913, chs. 162, 163, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 334; *Supplemental Supplement to the Code of Iowa*, 1915, secs. 2017, 2033-g, 2033-h, 2033-i, 2033-j, 2033-k, 2033-l, 2033-m, 2074-f, 2110-b1, 2110-b2, 2121, 2125; *Laws of Iowa*, 1917, chs. 211, 284, 327, 353, 390, 399, 403, 407.

<sup>110</sup> *Laws of Iowa*, 1907, ch. 102.

<sup>111</sup> *Supplemental Supplement to the Code of Iowa*, 1915, secs. 2017, 2033-g, 2033-h, 2033-i, 2033-j, 2033-k, 2033-l, 2033-m, 2074-f, 2110-b1, 2110-b2, 2121, 2125; *Laws of Iowa*, 1917, chs. 82, 93, 211, 245, 260, 284, 298, 315, 327, 353, 390, 399, 403.

<sup>112</sup> *Code of 1851*, secs. 462, 463.

<sup>113</sup> *Laws of Iowa*, 1858, ch. 152.

<sup>114</sup> *Laws of Iowa*, 1862, ch. 173.

<sup>115</sup> *Laws of Iowa*, 1868, ch. 196.

<sup>116</sup> *Laws of Iowa*, 1870, ch. 106.

<sup>117</sup> *Laws of Iowa* (general), 1872, ch. 26.

<sup>118</sup> Brindley's *History of Taxation in Iowa*, Vol. II, p. 83.

<sup>119</sup> For amendatory and acts of minor importance relative to the taxation of railroad corporations see *Code of 1873*, secs. 111-125; *Laws of Iowa*, 1878, ch. 114; *Laws of Iowa*, 1900, ch. 44; *Laws of Iowa*, 1902, chs. 58, 61, 62; *Laws of Iowa* (general), 1872, ch. 89; *Laws of Iowa*, 1876, ch. 153; *Laws of*



*Iowa*, 1884, ch. 28; *Laws of Iowa*, 1904, chs. 46, 47, 75. See also Brindley's *History of Taxation in Iowa*, Vol. II, pp. 3-55.

<sup>120</sup> *Laws of the Territory of Iowa*, 1839-1840, ch. 42.

<sup>121</sup> *Laws of Iowa*, 1858, ch. 92.

<sup>122</sup> See *Laws of Iowa*, 1862, ch. 84; *Laws of Iowa*, 1864, ch. 120; *Laws of Iowa*, 1866, ch. 113; *Laws of Iowa*, 1870, chs. 165, 178; *Laws of Iowa* (general), 1872, ch. 95; *Code of 1873*, sec. 2582.

<sup>123</sup> *Laws of Iowa*, 1870, ch. 165; *Laws of Iowa*, 1876, ch. 68; *Laws of Iowa*, 1884, chs. 143, 185.

<sup>124</sup> *Laws of Iowa*, 1888, ch. 28.

<sup>125</sup> *Laws of Iowa*, 1896, ch. 33.

<sup>126</sup> *Laws of Iowa*, 1896, ch. 36; *Laws of Iowa*, 1907, ch. 116. See also *Code of 1851*, secs. 1727, 2680; *Code of 1873*, secs. 2611, 3979; *Code of 1897*, sec. 4807.

<sup>127</sup> For the taxation of express companies see *Code of 1851*, sec. 462; *Laws of Iowa*, 1858, ch. 152; *Laws of Iowa*, 1868, ch. 180; *Laws of Iowa*, 1870, ch. 100; *Laws of Iowa*, 1896, ch. 32; *Laws of Iowa*, 1898, ch. 31; *Laws of Iowa*, 1900, ch. 45; *Laws of Iowa*, 1902, ch. 164; *Laws of Iowa*, 1907, ch. 58.

For the taxation of freight lines and equipment companies see *Laws of Iowa*, 1902, ch. 62. A good discussion of the taxation of express companies is to be found in Brindley's *History of Taxation in Iowa*, Vol. I, Chapter VIII.

<sup>128</sup> *Code of 1851*, ch. 47, Title IX; *Laws of Iowa*, 1896, ch. 108; *Code of 1873*, secs. 1324, 2582, 2611; *Laws of Iowa* (general), 1872, ch. 95; *Laws of Iowa*, 1876, ch. 68; *Laws of Iowa*, 1882, ch. 104; *Laws of Iowa*, 1888, chs. 1, 16; *Laws of Iowa*, 1896, ch. 107; *Code of 1897*, secs. 4807, 4816; *Laws of Iowa*, 1904, ch. 130.

<sup>129</sup> For legislation relative to the taxation of telegraph and telephone companies see *Laws of Iowa*, 1868, ch. 180; *Laws of Iowa*, 1870, ch. 100; *Laws of Iowa*, 1878, ch. 59; 67 Iowa 250; *Code of 1897*, secs. 1328-1332; *Laws of Iowa*, 1900, ch. 42; *Laws of Iowa*, 1904, chs. 44, 49; *Supplemental Supplement to the Code of Iowa*, 1915, secs. 1346-k to 1346-t, inclusive. See also Brindley's *History of Taxation in Iowa*, Vol. I, Chapter IX.

### CHAPTER III

<sup>130</sup> *Laws of the Territory of Iowa*, 1838-1839, p. 227.

<sup>131</sup> *Laws of the Territory of Iowa*, 1841-1842, ch. 126.

<sup>132</sup> *Laws of Iowa*, 1856-1857, ch. 188.

<sup>133</sup> For minor and amendatory acts relating to the State Agricultural Society, county agricultural societies, and similar organizations, see *Laws of Iowa*,

1850-1851, ch. 70; *Laws of Iowa*, 1852-1853, ch. 45; *Laws of Iowa*, 1855, chs. 41, 166; *Laws of Iowa*, 1858, ch. 91; *Revision of 1860*, p. 304; *Laws of Iowa* (special), 1860, ch. 94; *Laws of Iowa*, 1862, ch. 31; *Laws of Iowa*, 1864, ch. 109; *Laws of Iowa*, 1866, chs. 58, 128; *Laws of Iowa*, 1868, ch. 136; *Laws of Iowa* (general), 1872, ch. 25; *Laws of Iowa* (public), 1874, ch. 4; *Laws of Iowa*, 1876, ch. 44; *Laws of Iowa*, 1880, ch. 147; *Laws of Iowa*, 1884, chs. 128, 199; *Laws of Iowa*, 1890, ch. 44; *Laws of Iowa*, 1892, chs. 66, 67; *Laws of Iowa*, 1894, ch. 137; *Laws of Iowa*, 1896, ch. 128; *Laws of Iowa*, 1898, chs. 42, 43; *Laws of Iowa*, 1900, chs. 58, 59.

For the acts to encourage hedging and the growing of timber and fruit trees see *Laws of Iowa*, 1862, ch. 51; *Laws of Iowa*, 1868, ch. 92; *Laws of Iowa* (general), 1872, ch. 3; *Laws of Iowa* (public), 1874, ch. 45; *Laws of Iowa*, 1878, ch. 50; *Laws of Iowa*, 1880, ch. 190; *Laws of Iowa*, 1898, ch. 53; *Laws of Iowa*, 1906, chs. 52, 112; *Laws of Iowa*, 1907, ch. 55.

For legislation relative to the destruction of thistles see *Laws of Iowa*, 1868, ch. 143; *Laws of Iowa*, 1870, ch. 177; *Laws of Iowa* (general), 1872, ch. 66; *Laws of Iowa*, 1892, ch. 45; *Laws of Iowa*, 1894, ch. 91; *Laws of Iowa*, 1896, ch. 78.

For acts relating to the Weather and Crop Service see *Laws of Iowa*, 1878, ch. 45; *Laws of Iowa*, 1890, ch. 29; *Laws of Iowa*, 1892, chs. 57, 63; *Laws of Iowa*, 1896, ch. 158; *Laws of Iowa*, 1909, ch. 86.

For legislation relative to Farmers' Institutes see *Laws of Iowa*, 1892, ch. 58; *Laws of Iowa*, 1902, chs. 69, 165; *Laws of Iowa*, 1909, ch. 110.

Some miscellaneous acts are found in *Laws of Iowa*, 1884, ch. 202; *Laws of Iowa*, 1906, chs. 13, 213; *Laws of Iowa*, 1907, ch. 217; *Laws of Iowa*, 1911, ch. 153; *Laws of Iowa*, 1913, chs. 142, 330.

<sup>134</sup> For laws relative to the State Board of Agriculture see *Laws of Iowa*, 1900, ch. 58; *Laws of Iowa*, 1902, ch. 166; *Laws of Iowa*, 1904, ch. 150; *Laws of Iowa*, 1906, chs. 66, 67; *Laws of Iowa*, 1909, chs. 107, 108, 109; *Laws of Iowa*, 1913, ch. 141; *Supplemental Supplement to the Code of Iowa*, 1915, Title IX, ch. 3.

<sup>135</sup> *Laws of Iowa*, 1911, ch. 131; *Laws of Iowa*, 1913, ch. 248; *Supplemental Supplement to the Code of Iowa*, 1915, Title XIII, ch. 14, sec. 2775-a.

<sup>136</sup> *Laws of Iowa*, 1913, ch. 140; *Supplemental Supplement to the Code of Iowa*, 1915, Title IX, ch. 3; *Laws of Iowa*, 1917, ch. 90.

<sup>137</sup> *Laws of Iowa*, 1858, ch. 91.

<sup>138</sup> *Laws of Iowa* (extra session), 1862, ch. 26; *Laws of Iowa*, 1884, ch. 27.

<sup>139</sup> For more complete information on the points mentioned in the text see *Laws of Iowa*, 1884, ch. 134; *Laws of Iowa*, 1888, ch. 180; *Laws of Iowa*, 1894, ch. 107; *Laws of Iowa*, 1904, ch. 105; *Laws of Iowa*, 1906, chs. 124, 185, 213; *Laws of Iowa*, 1907, chs. 216, 217; *Laws of Iowa*, 1909, ch. 151; *Laws of Iowa*, 1911, ch. 114; *Laws of Iowa*, 1913, chs. 227, 228; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 2682-y1.

<sup>140</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 226, 462-470; *Revised Statutes of the Territory of Iowa*, 1842-1843, ch. 20; *Laws of the Territory of Iowa*, 1843-1844, ch. 7; *Laws of Iowa*, 1845-1846, ch. 21; *Laws of Iowa*, 1848-1849, ch. 38; *Laws of Iowa*, 1850-1851, chs. 33, 73; *Laws of Iowa*, 1852-1853, ch. 104.

<sup>141</sup> *Code of 1851*, chs. 15, 53; *Laws of Iowa*, 1855, ch. 135; *Laws of Iowa*, 1856-1857, chs. 173, 179, 193; *Laws of Iowa* (extra session), 1856, ch. 34; *Laws of Iowa*, 1862, ch. 102; *Laws of Iowa*, 1864, ch. 65; *Laws of Iowa*, 1868, ch. 144; *Laws of Iowa*, 1870, ch. 26; *Laws of Iowa* (general), 1872, chs. 18, 59; *Code of 1873*, secs. 1446-1488; *Laws of Iowa* (public), 1874, ch. 70; *Laws of Iowa*, 1880, ch. 188.

<sup>142</sup> For legislation for the improvement of domestic animals see *Laws of Iowa*, 1888, ch. 102; *Laws of Iowa*, 1892, ch. 66; *Laws of Iowa*, 1906, ch. 98; *Laws of Iowa*, 1909, chs. 134, 135; *Laws of Iowa*, 1911, ch. 100; *Laws of Iowa*, 1913, ch. 188.

<sup>143</sup> *Laws of Iowa*, 1909, ch. 250; *Laws of Iowa*, 1911, ch. 203; *Laws of Iowa*, 1913, ch. 333; *Supplemental Supplement to the Code of Iowa*, 1915, Title XII, ch. 13-A; *Laws of Iowa*, 1917, chs. 187, 289, 363.

<sup>144</sup> *Laws of Iowa*, 1862, ch. 35; *Laws of Iowa*, 1866, ch. 10; *Laws of Iowa*, 1868, ch. 185; *Code of 1873*, secs. 4056-4064.

<sup>145</sup> For the acts referred to in this paragraph see *Laws of Iowa*, 1884, ch. 189, joint resolution 7; *Laws of Iowa*, 1886, chs. 79, 156; *Laws of Iowa*, 1888, ch. 67; *Laws of Iowa*, 1892, ch. 49; *Laws of Iowa*, 1896, ch. 58; *Laws of Iowa*, 1898, ch. 63; *Laws of Iowa*, 1900, ch. 93; *Laws of Iowa*, 1902, ch. 170; *Laws of Iowa*, 1904, chs. 89, 90, 91; *Laws of Iowa*, 1906, ch. 170; *Laws of Iowa*, 1909, ch. 150.

<sup>146</sup> *Laws of Iowa*, 1906, ch. 170; *Laws of Iowa*, 1909, ch. 151; *Laws of Iowa*, 1911, ch. 114; *Laws of Iowa*, 1913, chs. 209, 210, 211, 227, 321; *Supplemental Supplement to the Code of Iowa*, 1915, Title XII, ch. 14-B; *Laws of Iowa*, 1917, ch. 329.

<sup>147</sup> *Laws of Iowa*, 1911, ch. 115; *Supplemental Supplement to the Code of Iowa*, 1915, Title XII, ch. 14.

<sup>148</sup> *Code of 1851*, ch. 54; *Laws of Iowa*, 1862, ch. 34; *Laws of Iowa*, 1868, ch. 108; *Laws of Iowa*, 1870, ch. 151; *Laws of Iowa* (general), 1872, chs. 14, 88; *Laws of Iowa*, 1892, ch. 67.

*Laws of Iowa*, 1862, ch. 76; *Laws of Iowa* (extra session), 1862, ch. 20; *Laws of Iowa*, 1884, ch. 70; *Laws of Iowa*, 1888, ch. 42; *Laws of Iowa*, 1894, ch. 84; *Laws of Iowa*, 1907, ch. 20; *Laws of Iowa*, 1909, ch. 32; *Laws of Iowa*, 1913, ch. 42.

*Laws of the Territory of Iowa*, 1839-1840, ch. 27; *Laws of the Territory of Iowa*, 1843-1844, ch. 8; *Laws of the Territory of Iowa*, 1845, ch. 10; *Laws of Iowa*, 1858, ch. 62; *Revision of 1860*, ch. 91, art. 8; *Laws of Iowa*, 1864, ch. 60;

*Laws of Iowa*, 1892, ch. 37; *Laws of Iowa*, 1907, ch. 121; *Laws of Iowa*, 1909, chs. 136, 137; *Laws of Iowa*, 1911, ch. 101; *Laws of Iowa*, 1913, chs. 42, 189, 190; *Supplemental Supplement to the Code of Iowa*, 1915, Title XII, ch. 16-F.

## CHAPTER IV

<sup>149</sup> *Laws of the Territory of Iowa*, 1843-1844, ch. 101; *Laws of the Territory of Iowa*, 1848-1849, ch. 103; *Laws of Iowa*, 1864, chs. 37, 91; *Laws of Iowa*, 1866, ch. 66; *Laws of Iowa*, 1868, ch. 133; *Laws of Iowa*, 1878, ch. 181; *Laws of Iowa*, 1894, ch. 107; *Laws of Iowa*, 1906, ch. 82; *Laws of Iowa*, 1911, ch. 29.

<sup>150</sup> *Laws of Iowa*, 1854-1855, ch. 83; *Laws of Iowa*, 1856-1857, ch. 103.

<sup>151</sup> *Laws of Iowa*, 1866, ch. 73; *Laws of Iowa*, 1868, ch. 178; *Laws of Iowa*, 1870, ch. 111.

<sup>152</sup> *Laws of Iowa*, 1892, ch. 71; *Laws of Iowa*, 1894, ch. 159; *Laws of Iowa*, 1906, ch. 104.

## CHAPTER V

<sup>153</sup> For special acts authorizing dams see *Laws of the Territory of Iowa*, 1838-1839, pp. 337-343; *Laws of the Territory of Iowa*, 1839-1840, chs. 61, 62, 65, 67, 74; *Laws of the Territory of Iowa* (special session), 1840, chs. 2, 3, 23; *Laws of the Territory of Iowa*, 1840-1841, chs. 8, 18, 56, 66, 81, 83, 84, 95, 100; *Laws of the Territory of Iowa*, 1841-1842, chs. 12, 21, 28, 50, 56, 74, 81; *Laws of the Territory of Iowa*, 1842-1843, chs. 2, 53, 58, 60, 67, 68, 82; *Laws of the Territory of Iowa*, 1843-1844, chs. 17, 69, 93, 104; *Laws of Iowa*, 1852-1853, ch. 111; *Laws of Iowa*, 1854-1855, chs. 67, 103, 104; *Laws of Iowa*, 1856-1857, chs. 144, 214, 219; *Laws of Iowa*, 1858, chs. 15, 84; *Laws of Iowa*, 1870, ch. 128; see also *Laws of Iowa*, 1855, joint resolution 20.

<sup>154</sup> *Laws of Iowa*, 1855, ch. 92. See also *Laws of Iowa* (special), 1860, ch. 62.

<sup>155</sup> *Laws of Iowa*, 1864, ch. 31; *Laws of Iowa*, 1866, ch. 119; *Laws of Iowa* (public), 1872, ch. 79.

<sup>156</sup> *Code of 1873*, secs. 1188-1206, 1236-1240. The same provisions are continued in *Code of 1897*, secs. 1921-1938, 1990-1994; *Laws of Iowa*, 1917, ch. 25.

<sup>157</sup> *Report of the Iowa State Drainage, Waterways and Conservation Commission* (1910), pp. 33, 34.

<sup>158</sup> *United States Statutes at Large*, Vol. IX, p. 519.

<sup>159</sup> *Laws of Iowa*, 1852-1853, ch. 13. See also *Laws of Iowa*, 1852-1853, ch. 65; *Laws of Iowa*, 1854-1855, ch. 110; *Laws of Iowa* (extra session), 1856, ch. 36; *Laws of Iowa*, 1870, ch. 135.

<sup>160</sup> *Laws of Iowa*, 1858, ch. 132; *Laws of Iowa* (extra session), 1861, ch. 8; *Laws of Iowa*, 1862, chs. 77, 135; *Laws of Iowa*, 1864, ch. 67.

<sup>161</sup> For a review of the controversy between the State and the national government see *Report of the Transactions of the Land Department of Iowa*, 1889, pp. 26-110.

The following is a synopsis of the State legislation relative to the Swamp Land Grant:

The commissioner of the State land office was authorized to take such steps as were necessary to secure the swamp and overflowed lands to the State, to sell such lands, and to pay the balance over expenses into the State treasury. The Governor was authorized to discharge the duties of commissioner until such commissioner should be elected.—*Laws of Iowa*, 1850-1851, ch. 69.

The Fourth General Assembly granted the swamp lands to the several counties. The counties were to carry out the provisions of the grant relative to the protection and reclamation of the lands. The selecting agent was required to report to the Secretary of State.—*Laws of Iowa*, 1852-1853, chs. 13, 65.

In 1855 the Governor was authorized to draw from the United States the swamp land indemnity money. In unorganized counties swamp lands could not be disposed of until title was perfected in the State. Organized counties were authorized to apply the proceeds of irreclaimable lands to the erection of public buildings. In such cases the drainage commissioner was required to pay over the proceeds to the county treasurer. Swamp lands were not to be sold for less than \$1.25 per acre. Trespass on swamp lands was also prohibited.—*Laws of Iowa*, 1854-1855, chs. 110, 138, 156.

Provision was made in 1856 that swamp land funds should be paid into the county treasury—to be paid out only on the order of the county judge and swamp land commissioner. The act also provided for the loaning of the swamp land fund.—*Laws of Iowa* (extra session), 1856, ch. 36.

All exemption laws were repealed by the Sixth General Assembly.—*Laws of Iowa*, 1856-1857, ch. 115.

The Seventh General Assembly authorized the Governor to appoint an agent to go to Washington to effect a settlement of the swamp land controversy with the United States, also to appoint agents to complete the selection of swamp lands in unorganized counties. Counties were authorized to use the proceeds from the sale of swamp lands for the erection of buildings for educational purposes, for roads, bridges, and railroads after the question had been voted on by the people. Another act extended the time for proving up and perfecting pre-emptions.—*Laws of Iowa*, 1858, chs. 3, 100, 132.

The control of swamp lands in the several counties was given to the boards of supervisors in 1861.—*Laws of Iowa* (extra session), 1861, ch. 8.

The Ninth General Assembly provided for the appointment of general agents by the Governor to settle swamp land matters with the commissioner of the general land office. It provided for the reception and location of indemnity scrip. Locating agents were required to report to the State land office. Spe-

cial county agents, to settle with the commissioner of the general land office, were provided for. Swamp land indemnity money when received was to be paid into the State treasury, and paid out only to the authorized agent of the county.—*Laws of Iowa*, 1862, ch. 160.

The boards of supervisors were authorized to have swamp lands appraised and to sell some for not less than the appraised value in 1864.—*Laws of Iowa*, 1864, ch. 67.

Mr. J. A. Harvey was appointed commissioner to adjust the swamp land matters with the general government in 1866. Two years later provision was made for filling the vacancy should the position become vacant; and in 1874 the office of swamp land commissioner was abolished.—*Laws of Iowa*, 1866, ch. 79; *Laws of Iowa*, 1868, ch. 135; *Laws of Iowa*, 1874, ch. 24.

The Seventeenth General Assembly authorized the State Treasurer to pay over the swamp land indemnity fund of each county to the county treasurer, and the board of supervisors was authorized to make such disposition of the money as should be deemed for the best interests of the county.—*Laws of Iowa*, 1878, ch. 134.

The Twenty-eighth General Assembly provided for the payment by the Treasurer of State of swamp land indemnity money direct to the county authorities.—*Laws of Iowa*, 1900, ch. 146.

For other minor, amendatory, and special laws and resolutions relative to the swamp lands see *Laws of Iowa*, 1856–1857, joint resolution 3; *Laws of Iowa*, 1858, ch. 76; *Laws of Iowa* (special), 1860, chs. 49, 56, 116; *Laws of Iowa*, 1862, chs. 77, 86, 135, joint resolution 17; *Laws of Iowa*, 1866, chs. 117, 131, joint resolution 12; *Laws of Iowa*, 1868, chs. 12, 37, joint resolution 5; *Laws of Iowa*, 1870, chs. 10, 11, 52, 119, 135, 157; *Laws of Iowa* (local), 1872, ch. 45, joint resolution 17; *Laws of Iowa* (local), 1874, ch. 37; *Laws of Iowa*, 1882, ch. 171; *Laws of Iowa*, 1884, joint resolution 19; *Laws of Iowa*, 1886, ch. 81; *Laws of Iowa*, 1888, concurrent resolutions 3, 4.

<sup>162</sup> *Laws of Iowa*, 1852–1853, chs. 13, 65.

<sup>163</sup> *Laws of Iowa*, 1862, ch. 70.

<sup>164</sup> *Laws of Iowa*, 1870, ch. 159. The *Code of 1873*, secs. 1207–1227, rearranges the law, but makes no additions to it on the subject of drains.

<sup>165</sup> *Laws of Iowa* (general), 1872, ch. 120.

<sup>166</sup> *Laws of Iowa*, 1876, ch. 140; *Laws of Iowa*, 1878, ch. 121; *Laws of Iowa*, 1880, chs. 85, 191; *Laws of Iowa*, 1882, chs. 44, 89.

<sup>167</sup> *Laws of Iowa*, 1884, chs. 186, 188. See also amendatory act in *Laws of Iowa*, 1888, ch. 97.

<sup>168</sup> *Laws of Iowa*, 1888, ch. 97.

<sup>169</sup> *Laws of Iowa*, 1884, ch. 188.

<sup>170</sup> *Fleming v. Hull*, 73 Iowa 598.

<sup>171</sup> *Laws of Iowa*, 1888, ch. 96.

<sup>172</sup> For the complete list of drainage acts passed 1884-1904 see *Laws of Iowa*, 1884, chs. 186, 188; *Laws of Iowa*, 1886, chs. 55, 139; *Laws of Iowa*, 1888, chs. 96, 97; *Laws of Iowa*, 1890, ch. 6; *Laws of Iowa*, 1896, ch. 47; *Code of 1897*, secs. 1939-1966; *Laws of Iowa*, 1902, ch. 78; *Laws of Iowa*, 1904, chs. 67, 68, 69, 70, 186, joint resolution 6.

<sup>173</sup> *Beebe et al. v. Magoun*, 122 Iowa 94. See also *Fleming v. Hull*, 73 Iowa 598; and *Smith v. Peterson*, 123 Iowa 672.

<sup>174</sup> *Smith v. Peterson*, 123 Iowa 672.

<sup>175</sup> *Laws of Iowa*, 1904, ch. 67; *Ross v. Supervisors*, 128 Iowa 427.

<sup>176</sup> *Laws of Iowa*, 1904, ch. 68.

<sup>177</sup> *Laws of Iowa*, 1904, chs. 67, 69, 70, 186.

<sup>178</sup> *Laws of Iowa*, 1904, joint resolution 6; *Laws of Iowa*, 1906, joint resolution 1; *Laws of Iowa*, 1907, joint resolution 2, p. 282.

<sup>179</sup> *Laws of Iowa*, 1909, ch. 249.

<sup>180</sup> The following men were appointed by the Governor to serve on the commission: Mr. A. C. Miller, of Des Moines; Mr. L. W. Anderson, of Cedar Rapids; Mr. E. A. Burgess, of Sioux City; Mr. A. F. Frudden, of Dubuque; Mr. I. W. Keerl, of Mason City; Mr. W. H. Stevenson, of Ames; and Professor T. H. Macbride of the State University of Iowa.

<sup>181</sup> The law states that the investigations of the commission shall include, in addition to the matters cited relative to drainage, the following:

"Art. 5. The question of forests and their preservation and their culture in the state, and especially with reference to the influence of forests upon the flood conditions of the rivers and the erosion and waste of the soils;

"Art. 6. It is the clear intent and purpose of this bill that the close interrelation of the several phases of river development shall be shown, and the necessity for a broad comprehensive treatment of our rivers shall be studied and reported upon;

"Art. 7. The general question of the relation of the state to the preservation of the fertility of the Iowa soils;

"Art. 8. The general question of the wise and conservative development and use of the mineral resources of the state, especially with reference to the mining of coals;

"Art. 9. And the general question of the nature and condition of such lakes in Iowa as now belong to the state, the relation of lakes and streams to the preservation of such varieties of fish, birds, and native animals as are desirable, and the preservation of the peat beds which now belong to the state."

<sup>182</sup> *Laws of Iowa*, 1909, ch. 249, sec. 2; *Report of the Iowa State Drainage Waterways and Conservation Commission*, 1910, p. 20 et seq.

<sup>183</sup> *Laws of Iowa*, 1911, chs. 87, 88.

<sup>184</sup> *Laws of Iowa*, 1913, ch. 158; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 1989-a61.

<sup>185</sup> For drainage of highways see *Supplemental Supplement to the Code of Iowa*, 1915, Title X, ch. 2-B.

For drainage laws enacted from 1906 to 1917 inclusive see *Laws of Iowa*, 1906, ch. 9 (sections 15, 16, 17), chs. 84, 85, 86; *Laws of Iowa*, 1907, chs. 94, 95; *Laws of Iowa*, 1909, chs. 81, 97, 117, 118, 119, 120, 121, 122, 249; *Laws of Iowa*, 1911, chs. 85, 86, 87, 88, 89; *Laws of Iowa*, 1913, chs. 145, 153, 154, 155, 156, 157, 158, 159; *Supplemental Supplement to the Code of Iowa*, 1915, Title X, chs. 2-A, 2-B; *Laws of Iowa*, 1917, chs. 28, 127, 161, 221, 224, 264, 302, 307, 344, 347, 414, 415.

For acts relative to draining coal, lead, and zinc mines see *Laws of Iowa*, 1864, chs. 37, 91; *Laws of Iowa*, 1866, ch. 66; *Laws of Iowa*, 1906, ch. 82.

For acts relative to United States levees see *Laws of Iowa*, 1896, ch. 46; *Laws of Iowa*, 1906, ch. 83; *Laws of Iowa*, 1907, ch. 93; *Laws of Iowa*, 1911, ch. 86.

For miscellaneous and special acts on drainage see *Laws of Iowa*, 1852-1853, ch. 98; *Laws of Iowa* (extra session), 1856, ch. 33; *Laws of Iowa*, 1858, chs. 68, 83; *Laws of Iowa* (special), 1860, ch. 70; *Laws of Iowa*, 1862, ch. 104; *Laws of Iowa*, 1886, ch. 17; *Laws of Iowa*, 1904, concurrent resolution 12; *Laws of Iowa*, 1906, ch. 9 (secs. 15, 16, 17); *Laws of Iowa*, 1907, concurrent resolution 3.

<sup>186</sup> *Laws of Iowa*, 1856-1857, ch. 164; *Laws of Iowa*, 1858, ch. 147. The dates of the closed season were again changed by *Laws of Iowa*, 1862, ch. 115, and by *Laws of Iowa* (public), 1872, ch. 117. See also *Laws of Iowa* (public), 1874, ch. 69.

<sup>187</sup> *Laws of Iowa*, 1862, ch. 4; *Laws of Iowa* (public), 1872, ch. 54.

<sup>188</sup> *Laws of Iowa*, 1868, ch. 113; *Laws of Iowa*, 1870, ch. 74.

<sup>189</sup> *Laws of Iowa*, 1874 (public), ch. 50; *Laws of Iowa*, 1874 (local), ch. 74.

<sup>190</sup> *Laws of Iowa*, 1876, ch. 70. Also *Laws of Iowa*, 1878, ch. 80.

<sup>191</sup> For fish and game laws enacted from 1876 to 1897 see *Laws of Iowa*, 1876, ch. 122; *Laws of Iowa*, 1878, chs. 156, 188; *Laws of Iowa*, 1880, chs. 92, 100, 123, 156, 193; *Laws of Iowa*, 1882, chs. 17, 99; *Laws of Iowa*, 1884, chs. 9, 67, 144, 164; *Laws of Iowa*, 1886, chs. 63, 155; *Laws of Iowa*, 1888, chs. 103, 134; *Laws of Iowa*, 1890, ch. 34; *Laws of Iowa*, 1892, ch. 46; *Laws of Iowa*, 1894, chs. 64, 65; *Laws of Iowa*, 1896, ch. 80.

<sup>192</sup> *Code of 1897*, sec. 2539. For the law as it was in 1897 see *Code of 1897*, secs. 2539-2563.

<sup>193</sup> For the fish and game laws enacted from 1898 to 1917 see *Laws of Iowa*, 1898, chs. 64, 65, 66; *Laws of Iowa*, 1900, chs. 86, 87; *Laws of Iowa*, 1902, chs.



103, 104, 201; *Laws of Iowa*, 1904, chs. 92, 93, 94, 95, 96; *Laws of Iowa*, 1906, chs. 108, 160; *Laws of Iowa*, 1907, ch. 210, concurrent resolution 9; *Laws of Iowa*, 1909, chs. 152, 153, 154, 155, 245; *Laws of Iowa*, 1911, chs. 116, 117, 118; *Laws of Iowa*, 1913, chs. 203, 204, 205, 206; *Supplemental Supplement to the Code of Iowa*, 1915, Title XII, chs. 15, 15-A; *Laws of Iowa*, 1917, chs. 81, 111, 168, 202, 233, 289, 396.

## CHAPTER VI

<sup>194</sup> This chapter follows to some extent the articles by Dr. Frank E. Horack on *Some Phases of Corporate Legislation in the Territory of Iowa* and *Some Phases of Corporate Regulation in the State of Iowa* in *The Iowa Journal of History and Politics*, Vol. II, pp. 381-393 and 484-519.

<sup>195</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 361-364. See also *Laws of the Territory of Wisconsin*, 1836-1838, pp. 226-230.

<sup>196</sup> For the special acts of incorporation passed during the Territorial period see *Laws of the Territory of Iowa*, 1838-1839, pp. 231, 239, 241, 243, 254, 255, 269; *Laws of the Territory of Iowa*, 1839-1840, chs. 16, 29, 34, 41, 43, 50; *Laws of the Territory of Iowa*, 1840-1841, ch. 63; *Laws of the Territory of Iowa*, 1841-1842, chs. 28, 91, 119, 124; *Laws of the Territory of Iowa*, 1842-1843, chs. 18, 56, 58; *Laws of the Territory of Iowa*, 1843-1844, chs. 67, 79, 101, 109, 123, 127.

<sup>197</sup> *Constitution of the State of Iowa*, 1846, Art. VIII, sec. 2.

<sup>198</sup> *Laws of Iowa*, 1846-1847, ch. 81. For an amendatory act see *Laws of Iowa*, 1848-1849, ch. 89.

<sup>199</sup> For the slight modifications and additions to the law of 1847 as they appear in the codification of 1851, see *Code of 1851*, Title X, ch. 43.

For the new sections of the law see *Code of 1851*, secs. 693, 699, 700, 702, 703, 704, 705, 706, 707.

<sup>200</sup> *Constitution of the State of Iowa*, 1857, Art. VIII, secs. 1, 2, 3, 12.

<sup>201</sup> For the corporation laws enacted in 1858-1872, see *Laws of Iowa*, 1858, ch. 85; *Revision of 1860*, ch. 52, Art. 2, secs. 1185, 1186; *Laws of Iowa*, 1868, ch. 133; *Laws of Iowa*, 1870, ch. 172; *Laws of Iowa* (general), 1872, chs. 36, 65, 83, 111.

<sup>202</sup> *Code of 1873*, sec. 1090.

<sup>203</sup> For the corporation laws enacted between 1874 and 1884 see *Laws of Iowa*, 1878, ch. 23; *Laws of Iowa*, 1880, ch. 57; *Laws of Iowa*, 1884, chs. 22, 139.

For legalizing acts during the same period see *Laws of Iowa*, 1876, chs. 1, 32, 82; *Laws of Iowa*, 1878, chs. 24, 61, 86; *Laws of Iowa*, 1880, chs. 19, 33, 66, 102, 104, 160; *Laws of Iowa*, 1882, ch. 77.

<sup>204</sup> *Laws of Iowa*, 1886, ch. 76. For other acts of 1886 relative to corporations see *Laws of Iowa*, 1886, chs. 57, 125.

<sup>205</sup> *Baron v. Burnside*, 121 United States 186.

<sup>206</sup> *Laws of Iowa*, 1888, ch. 86.

<sup>207</sup> *Code of 1897*, sec. 1607.

<sup>208</sup> *Laws of Iowa*, 1888, ch. 88. See also chs. 174, 176.

<sup>209</sup> *Laws of Iowa*, 1896, chs. 81, 98.

<sup>210</sup> *Code of 1897*, sec. 1612.

<sup>211</sup> *Code of 1897*, sec. 1621.

<sup>212</sup> *Code of 1897*, secs. 1627, 1631.

<sup>213</sup> *Code of 1897*, secs. 1637, 1639, 1640, 1641.

For the complete law see *Code of 1897*, Title IX, ch. 1, secs. 1607-1641.

<sup>214</sup> *Laws of Iowa*, 1898, chs. 40, 41; *Laws of Iowa*, 1900, chs. 56, 57; *Laws of Iowa*, 1902, chs. 66, 67, 226; *Laws of Iowa*, 1904, chs. 54, 55; *Laws of Iowa*, 1906, ch. 64.

<sup>215</sup> *Laws of Iowa*, 1907, ch. 70.

<sup>216</sup> *Laws of Iowa*, 1907, ch. 71.

<sup>217</sup> *Laws of Iowa*, 1907, chs. 72, 73. See also *Laws of Iowa*, 1907, chs. 183, 184.

<sup>218</sup> *Laws of Iowa*, 1909, chs. 104, 105, 272.

<sup>219</sup> *Laws of Iowa*, 1911, chs. 74, 75, 76; *Laws of Iowa*, 1913, chs. 135, 136, 138.

<sup>220</sup> *Supplemental Supplement to the Code of Iowa*, 1915, Title IX, ch. 1. See also *Laws of Iowa*, 1917, chs. 96, 128.

<sup>221</sup> *Laws of Iowa*, 1904, ch. 66.

<sup>222</sup> *Laws of Iowa*, 1913, ch. 137.

<sup>223</sup> *Compton Co. v. Allen*, 216 Fed. 537.

<sup>224</sup> *Supplemental Supplement to the Code of Iowa*, 1915, Title IX, ch. 13-B.

<sup>225</sup> *Code of 1873*, sec. 1297; *Laws of Iowa*, 1888, ch. 28, sec. 6, ch. 84.

<sup>226</sup> *Laws of Iowa*, 1890, ch. 28.

<sup>227</sup> *Laws of Iowa*, 1896, ch. 22; *Laws of Iowa*, 1907, chs. 187, 188; *Laws of Iowa*, 1909, ch. 225; *Laws of Iowa*, 1913, ch. 295. An appropriation of \$5000 was made in 1917 for the purpose of investigating the charges that an illegal combination existed among the manufacturers of cement of the quality used in bridge and culvert construction.—*Laws of Iowa*, 1917, ch. 273.

<sup>223</sup> *Laws of Iowa*, 1846-1847, ch. 100, sec. 10; *Code of 1851*, sec. 458; *Constitution of Iowa*, 1857, Art. VIII, sec. 2.

<sup>229</sup> *Code of 1897*, secs. 1323-1325.

<sup>230</sup> *Code of 1897*, secs. 1318, 1319, 1327, 1350; *Laws of Iowa*, 1911, ch. 63.

## CHAPTER VII

<sup>231</sup> Zartman and Price's *Yale Readings in Life Insurance*, p. 77.

<sup>232</sup> *Laws of the Territory of Wisconsin*, 1837-1838, chs. 13, 101.

<sup>233</sup> *Laws of the Territory of Iowa*, 1838-1839, p. 269. For an amendatory act see *Laws of the Territory of Iowa*, 1839-1840, ch. 34.

<sup>234</sup> *Laws of the Territory of Iowa*, 1839-1840, ch. 41; *Laws of the Territory of Iowa*, 1841-1842, ch. 62.

<sup>235</sup> *Laws of the Territory of Iowa*, 1841-1842, chs. 119, 124; *Laws of the Territory of Iowa*, 1843-1844, ch. 67.

<sup>236</sup> *Constitution of the State of Iowa*, 1846, Art. VIII, sec. 2.

<sup>237</sup> *Laws of Iowa*, 1856-1857, ch. 149.

<sup>238</sup> *Laws of Iowa*, 1858, ch. 12; *Laws of Iowa*, 1862, ch. 39; *Laws of Iowa*, 1866, ch. 106.

<sup>239</sup> The report required is the same as that which is required at present.—*Code of 1897*, sec. 1714.

<sup>240</sup> *Laws of Iowa*, 1868, ch. 138.

<sup>241</sup> For laws relative to the kinds of insurance and risks authorized see *Laws of Iowa*, 1886, chs. 145, 157; *Laws of Iowa*, 1892, ch. 29; *Laws of Iowa*, 1894, ch. 32; *Laws of Iowa*, 1900, chs. 60, 61; *Laws of Iowa*, 1902, chs. 70, 71, 72; *Laws of Iowa*, 1906, chs. 68, 69, 70, 71, 72; *Laws of Iowa*, 1907, ch. 82; *Laws of Iowa*, 1909, ch. 112; *Laws of Iowa*, 1911, ch. 18, secs. 4, 5, 21, ch. 78; *Laws of Iowa*, 1913, chs. 143, 144; *Supplement to the Code of Iowa*, 1913, secs. 1709, 1710; *Laws of Iowa*, 1917, ch. 428.

<sup>242</sup> *Laws of Iowa* (general), 1872, ch. 106.

<sup>243</sup> *Laws of Iowa*, 1876, chs. 37, 60; *Laws of Iowa*, 1878, chs. 39, 111; *Laws of Iowa*, 1880, chs. 210, 211; *Laws of Iowa*, 1882, chs. 111, 149; *Laws of Iowa*, 1886, ch. 157; *Laws of Iowa*, 1894, ch. 31; *Laws of Iowa*, 1896, chs. 22, 23; *Laws of Iowa*, 1898, chs. 44, 45; *Laws of Iowa*, 1900, chs. 62, 63, 64; *Laws of Iowa*, 1902, ch. 73; *Laws of Iowa*, 1906, ch. 73; *Laws of Iowa*, 1907, ch. 75.

<sup>244</sup> The form of the standard fire insurance policy for Iowa is to be found in *Laws of Iowa*, 1907, ch. 76, sec. 2. See also *Laws of Iowa*, 1911, ch. 18, secs. 9, 10.

<sup>245</sup> *Laws of Iowa*, 1909, ch. 111; *Laws of Iowa*, 1911, chs. 18, 79; *Laws of Iowa*, 1917, ch. 185.

<sup>246</sup> *Supplemental Supplement to the Code of Iowa*, 1915, Title IX, ch. 4; *Laws of Iowa*, 1917, chs. 155, 234, 429.

<sup>247</sup> For the provisions relative to mutual assessment associations see *Laws of the Territory of Iowa*, 1838-1839, pp. 269-274; *Laws of the Territory of Iowa*, 1843-1844, ch. 67; *Code of 1851*, sec. 706; *Laws of Iowa*, 1868, ch. 138; *Laws of Iowa*, 1870, ch. 108; *Laws of Iowa* (general), 1872, ch. 107; *Laws of Iowa* (public), 1874, ch. 55; *Laws of Iowa*, 1876, ch. 103.

<sup>248</sup> For acts relative to mutual assessment associations 1878-1896, see *Laws of Iowa*, 1878, chs. 39, 104; *Laws of Iowa*, 1884, ch. 11; *Laws of Iowa*, 1888, ch. 93.

<sup>249</sup> For acts relative to mutual assessment associations 1897-1915, see *Code of 1897*, Title IX, ch. 5; *Laws of Iowa*, 1902, ch. 74; *Laws of Iowa*, 1907, ch. 80; *Laws of Iowa*, 1911, ch. 18; *Supplemental Supplement to the Code of Iowa*, 1915, Title IX, ch. 4, Sec. 1758-i; *Laws of Iowa*, 1917, chs. 42, 412.

<sup>250</sup> *Iowa Insurance Report*, 1913, pp. 42-49.

<sup>251</sup> *Laws of Iowa*, 1917, ch. 180.

<sup>252</sup> *Laws of Iowa*, 1868, ch. 173; see *Code of 1897*, sec. 1773.

<sup>253</sup> "There shall be paid by every company doing business in this State, except companies organized under the laws of this State, the following fees:—

"Upon filing declaration or certified copy of charter, twenty-five dollars.

"Upon filing annual statement, twenty dollars.

"For each certificate of authority, and certified copy thereof, two dollars.

"For every copy of any paper filed in the department, the sum of twenty cents per folio, and for affixing the official seal to such copy, and certifying the same, one dollar.

"For valuing policies of life insurance companies, ten dollars per million of insurance, or any fraction thereof.

"For official examinations of companies under this act, the actual expense incurred.

"And companies organized under the laws of this State shall pay the following fees:

"For filing and examination of the first application of any company, and the issuing of the certificate of license thereon, ten dollars.

"For filing each annual statement, and issuing the renewal of license required by law, three dollars.

"For each certificate of authority to its agents, fifty cents.

"When, by the laws of any other State, any taxes, fines, penalties, licenses, fees, deposits of money or of securities, or other obligations or prohibitions, are imposed, or would be imposed, on insurance companies of this State doing, or that might seek to do, business in such other State, or upon their agents

therein, so long as such laws continue in force the same obligations and prohibitions, of whatever kind, shall be imposed upon all insurance companies of such other State doing business within this State, or upon their agents here.'—*Laws of Iowa* (general), 1872, ch. 106, secs. 4, 5.

<sup>254</sup> For laws for the protection of the assured see *Laws of Iowa*, 1876, chs. 55, 164; *Laws of Iowa*, 1890, ch. 33; *Laws of Iowa*, 1892, ch. 28; *Code of 1897*, Sec. 1817.

For laws regulating investments by insurance companies see *Laws of Iowa*, 1878, ch. 47; *Laws of Iowa*, 1886, ch. 169; *Laws of Iowa*, 1888, ch. 94; *Laws of Iowa*, 1892, ch. 30; *Laws of Iowa*, 1894, ch. 33; *Laws of Iowa*, 1900, ch. 66; *Laws of Iowa*, 1906, ch. 77; *Laws of Iowa*, 1913, ch. 145; *Supplemental Supplement to the Code of Iowa*, 1915, Title IX, ch. 8, sec. 1806; *Laws of Iowa*, 1917, ch. 404.

For other regulatory laws see *Laws of Iowa*, 1874, ch. 2; *Laws of Iowa*, 1880, ch. 211; *Laws of Iowa*, 1898, ch. 46; *Laws of Iowa*, 1902, ch. 75; *Laws of Iowa*, 1904, ch. 59; *Laws of Iowa*, 1906, ch. 74; *Laws of Iowa*, 1907, chs. 81, 84, 85; *Laws of Iowa*, 1909, ch. 113; *Supplemental Supplement to the Code of Iowa*, 1915, Title IX, ch. 6, sec. 1783-b.

<sup>255</sup> *Iowa Insurance Report*, 1883, pp. 61–67; *Iowa Insurance Report*, 1884, pp. 5–11.

<sup>256</sup> *Laws of Iowa*, 1886, ch. 65.

<sup>257</sup> *Laws of Iowa*, 1900, ch. 65.

<sup>258</sup> *Laws of Iowa*, 1904, ch. 60; *Laws of Iowa*, 1906, chs. 75, 76; *Laws of Iowa*, 1907, ch. 83; *Laws of Iowa*, 1911, ch. 18; *Laws of Iowa*, 1917, chs. 227, 413.

<sup>259</sup> *Laws of Iowa*, 1896, ch. 21.

<sup>260</sup> *Laws of Iowa*, 1898, ch. 47; *Laws of Iowa*, 1904, chs. 61, 62, 63; *Laws of Iowa*, 1907, chs. 86, 87, 88, 89; *Laws of Iowa*, 1911, chs. 18, 81, 82; *Supplemental Supplement to the Code of Iowa*, 1915, Title IX, ch. 9; *Laws of Iowa*, 1917, chs. 113, 193, 379, 431.

<sup>261</sup> *Laws of Iowa*, 1904, chs. 56, 57, 58.

<sup>262</sup> *Laws of Iowa*, 1906, ch. 188.

<sup>263</sup> *Report of the Legislative Insurance Commission of Iowa*, 1906, pp. 9, 10, 69–88.

<sup>264</sup> *Laws of Iowa*, 1907, chs. 73, 74, 77, 78, 79; *Laws of Iowa*, 1911, chs. 18, 79, 80, 128.

<sup>265</sup> *Laws of Iowa*, 1913, ch. 146.

<sup>266</sup> For a more detailed presentation of the taxation of insurance companies in Iowa see Brindley's *History of Taxation in Iowa*, Vol. I, Chapter VII.

<sup>287</sup> *Code of 1851*, secs. 455, 464.

<sup>288</sup> *Laws of Iowa*, 1868, ch. 138, sec. 38; *Laws of Iowa* (general), 1872, ch. 106.

<sup>289</sup> *Code of 1897*, sec. 1333. See also *Code of 1873*, sec. 807; *Laws of Iowa*, 1874, ch. 2.

<sup>270</sup> See Brindley's *History of Taxation in Iowa*, Vol. I, pp. 166-176.

<sup>271</sup> *Laws of Iowa*, 1900, ch. 43; *Laws of Iowa*, 1902, ch. 57; *Laws of Iowa*, 1906, ch. 48; *Laws of Iowa*, 1907, chs. 56, 57; *Laws of Iowa*, 1917, ch. 258.

## CHAPTER VIII

<sup>272</sup> *Laws of the Territory of Wisconsin*, 1836, ch. 7, pp. 27-34.

<sup>273</sup> *United States Statutes at Large*, Vol. V, p. 198.

<sup>274</sup> Merritt's *The Early History of Banking in Iowa*, pp. 9-28.

<sup>275</sup> *Laws of the Territory of Iowa*, 1838-1839, resolution 2, pp. 515, 516; Merritt's *The Early History of Banking in Iowa*, pp. 39-43.

<sup>276</sup> *Laws of the Territory of Iowa*, 1845, ch. 31; Knox's *A History of Banking in the United States*, pp. 761-763; Merritt's *The Early History of Banking in Iowa*, pp. 1-117; *Miners' Bank of Dubuque v. The United States*, 1 Morris 482 (Miller's reprint, p. 635); *Miners' Bank of Dubuque v. United States*, 1 Green 553.

<sup>277</sup> *Laws of the Territory of Iowa*, 1838-1839, p. 64.

<sup>278</sup> *Constitution of the State of Iowa*, 1846, Art. 8.

<sup>279</sup> *Code of 1851*, secs. 2731-2734, p. 378.

<sup>280</sup> Knox's *A History of Banking in the United States*, pp. 763-766.

<sup>281</sup> Lathrop's *Some Iowa Bank History* in the *Iowa Historical Record*, Vol. XIII, pp. 54-65.

<sup>282</sup> *Constitution of the State of Iowa*, 1857, Art. 8, secs. 4-12.

<sup>283</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 45.

<sup>284</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 125-128.

<sup>285</sup> *Laws of Iowa*, 1858, ch. 114.

<sup>286</sup> *Laws of Iowa*, 1858, ch. 87.

<sup>287</sup> *Laws of Iowa*, 1858, ch. 146; Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 204, 205.

<sup>288</sup> Sherman's *The State Bank of Iowa* in *The Annals of Iowa* (Third Series), Vol. V, p. 98.

<sup>289</sup> The following men were named as commissioners by the statute: C. H. Booth, E. H. Harrison, Ezekiel Clark, J. W. Dutton, W. J. Gatling, C. W. Slagle, Elihu Baker, W. S. Dart, L. W. Babbitt, Edward T. Edgington.—*Laws of Iowa*, 1858, ch. 87, sec. 51.

Branches were established and the original Board of Directors was made up as follows: W. T. Smith of the Oskaloosa Branch, Samuel F. Miller of the Keokuk Branch, P. M. Cassady of the Des Moines Branch, Samuel J. Kirkwood of the Iowa City Branch, Chester Weed of the Muscatine Branch, Richard Bonson of the DuBuque Branch, Timothy Whiting of the Mount Pleasant Branch, Hiram Price of the Davenport Branch.

On the part of the State the General Assembly appointed Hoyt Sherman and Benjamin Lake.—*Record of the Commissioners*, p. 22.

The original records of the Board of Commissioners and of the Board of Directors of the State Bank of Iowa are in the possession of The State Historical Society of Iowa.

The permanent officers of the Board were: President, Chester Weed; Vice-President, W. T. Smith; Secretary, Elihu Baker. S. J. Kirkwood and Hiram Price, with the Vice-President, formed the Executive Committee.—*Record of the Commissioners*, pp. 32, 33.

<sup>290</sup> *Laws of Iowa*, 1858, ch. 87.

<sup>291</sup> *Records of the Commissioners*, pp. 2, 6.

<sup>292</sup> *Record of the Board of Directors*, pp. 22–33.

<sup>293</sup> *Laws of Iowa*, 1862, ch. 17; *Laws of Iowa*, 1864, chs. 43, 53.

<sup>294</sup> *Record of the Board of Directors*, pp. 207, 208; Sherman's *The State Bank of Iowa* in *The Annals of Iowa* (Third Series), Vol. V, pp. 105–107.

<sup>295</sup> *Record of the Board of Directors*, pp. 292–295, 303–307.

<sup>296</sup> Sherman's *The State Bank of Iowa* in *The Annals of Iowa* (Third Series), Vol. V, p. 116.

<sup>297</sup> Knox's *A History of Banking in the United States*, p. 770; *Laws of Iowa*, 1870, ch. 70.

<sup>298</sup> *Laws of Iowa*, 1858, chs. 114, 146; Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 204, 205.

<sup>299</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, p. 168.

<sup>300</sup> *Senate Journal*, 1860, pp. 677–679.

<sup>301</sup> *Laws of Iowa*, 1870, ch. 25.

<sup>302</sup> *Laws of Iowa*, 1847, ch. 81, sec. 7; *Laws of Iowa*, 1870, ch. 172, secs. 2, 11; *Census of Iowa*, 1905, pp. c–ci; *Report of the Auditor of State*, 1873, pp. 60, 61, 101–104; *Report of the Auditor of State*, 1875, pp. 14, 87–90.

<sup>303</sup> *Code of 1873*, secs. 1570-1576.

<sup>304</sup> *Laws of Iowa*, 1880, chs. 153, 208.

<sup>305</sup> *Laws of Iowa*, 1886, ch. 72.

<sup>306</sup> *Laws of Iowa*, 1890, ch. 50; *Laws of Iowa*, 1894, chs. 29, 30.

<sup>307</sup> *Code of 1897*, secs. 1861-1889.

<sup>308</sup> *Laws of Iowa*, 1902, ch. 76; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 1870.

<sup>309</sup> *Laws of Iowa*, 1904, ch. 64; *Laws of Iowa*, 1906, chs. 80, 81; *Laws of Iowa*, 1909, ch. 115; *Laws of Iowa*, 1911, ch. 83; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 1875; *Laws of Iowa*, 1917, ch. 189.

<sup>310</sup> *Laws of Iowa*, 1906, chs. 9, 65, 79; *Laws of Iowa*, 1907, chs. 90, 91, 92; *Laws of Iowa*, 1909, chs. 114, 116; *Laws of Iowa*, 1911, ch. 84; *Laws of Iowa*, 1913, chs. 151, 152; *Supplemental Supplement to the Code of Iowa*, 1915, secs. 1889-d, 1889-o. The procedure in reducing the capital stock of banks was set forth by ch. 218, *Laws of Iowa*, 1917.

<sup>311</sup> *Laws of Iowa* (public), 1874, ch. 60.

<sup>312</sup> Keyes's *A History of Savings Banks in the United States*, Vol. II, pp. 451-454.

<sup>313</sup> *Laws of Iowa*, 1890, ch. 50; *Laws of Iowa*, 1894, ch. 30; *Laws of Iowa*, 1904, ch. 64; *Laws of Iowa*, 1906, chs. 80, 81; *Laws of Iowa*, 1909, ch. 115; *Laws of Iowa*, 1911, ch. 83; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 1875.

<sup>314</sup> *Laws of Iowa*, 1894, ch. 29.

<sup>315</sup> *Code of 1897*, sec. 1860; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 1860; *Laws of Iowa*, 1917, ch. 189.

<sup>316</sup> *Laws of Iowa*, 1900, ch. 67; *Laws of Iowa*, 1902, ch. 167.

<sup>317</sup> *Laws of Iowa*, 1902, ch. 76; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 1870; *Laws of Iowa*, 1906, ch. 78; *Laws of Iowa*, 1913, ch. 149; *Laws of Iowa*, 1888, ch. 89; *Laws of Iowa*, 1907, ch. 91; *Laws of Iowa*, 1913, ch. 150; *Laws of Iowa*, 1906, ch. 79; *Laws of Iowa*, 1904, ch. 2, secs. 5, 6; *Laws of Iowa*, 1913, ch. 152; *Supplemental Supplement to the Code of Iowa*, 1915, secs. 1889-d, 1889-o.

For other legislation pertaining to savings banks see *Laws of Iowa*, 1880, chs. 153, 208; *Code of 1897*, secs. 1840-1860, 1868-1889; *Laws of Iowa*, 1906, ch. 65; *Laws of Iowa*, 1907, chs. 90, 92; *Laws of Iowa*, 1909, ch. 116; *Laws of Iowa*, 1911, ch. 84; *Laws of Iowa*, 1917, chs. 238, 357, 364.

<sup>318</sup> *Code of 1897*, sec. 1889.

<sup>319</sup> *Laws of Iowa*, 1904, ch. 65; *Laws of Iowa*, 1906, ch. 81; *Laws of Iowa*,



1909, ch. 115; *Laws of Iowa*, 1911, chs. 83, 84; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 1875.

<sup>320</sup> *Report of the Twenty-first Annual Convention Iowa Bankers' Association*, 1907, p. 52.

<sup>321</sup> *Laws of Iowa*, 1913, ch. 152.

<sup>322</sup> *Supplemental Supplement to the Code of Iowa*, 1915, secs. 1889-d, 1889-o.

<sup>323</sup> *Laws of Iowa*, 1917, ch. 40.

<sup>324</sup> A more detailed account of the taxation of banks is given in Brindley's *History of Taxation in Iowa*, Vol. I, pp. 145-163.

<sup>325</sup> *Code of 1851*, secs. 456, 466.

<sup>326</sup> *Laws of Iowa*, 1858, ch. 87, sec. 36; ch. 114, sec. 11.

<sup>327</sup> *Laws of Iowa*, 1866, ch. 108. See also *Revision of 1860*, sec. 725.

<sup>328</sup> *Hubbard et al. v. The Board of Supervisors of Johnson County*, 23 Iowa 130; *Laws of Iowa*, 1868, ch. 153.

<sup>329</sup> *Morseman v. Yountkin et al.*, 27 Iowa 350; *First National Bank of Iowa City v. Hershire*, Treasurer, 31 Iowa 18; *Hershire, treasurer, etc., v. First National Bank of Iowa City*, 35 Iowa 272.

<sup>330</sup> *Laws of Iowa*, 1870, chs. 25, 70; *Code of 1873*, sec. 812.

<sup>331</sup> *Laws of Iowa* (public), 1874, ch. 63.

<sup>332</sup> *Laws of Iowa* (public), 1874, ch. 60, sec. 28.

<sup>333</sup> *Laws of Iowa*, 1890, ch. 39.

<sup>334</sup> *The Primghar State Bank, Appellant, v. Henry Rerick, Treasurer, et al.*, 96 Iowa 238.

<sup>335</sup> *Code of 1897*, secs. 1321, 1322.

<sup>336</sup> *Laws of Iowa*, 1906, ch. 50; *Laws of Iowa*, 1911, ch. 63.

<sup>337</sup> *Laws of Iowa*, 1913, ch. 114.

## CHAPTER IX

<sup>338</sup> *Biennial Report of the Auditor of State*, 1897, pp. 13-20.

<sup>339</sup> *Laws of Iowa* (public), 1872, chs. 30, 101.

<sup>340</sup> *Laws of Iowa*, 1896, ch. 85.

<sup>341</sup> *Code of 1897*, secs. 1890-1920; *Laws of Iowa*, 1898, ch. 48; *Laws of Iowa*, 1900, ch. 69.

<sup>342</sup> *Laws of Iowa*, 1900, ch. 69.

<sup>343</sup> *Laws of Iowa*, 1902, ch. 77.

<sup>344</sup> *Laws of Iowa*, 1911, ch. 73.

<sup>345</sup> *Laws of Iowa*, 1876, ch. 163.

<sup>346</sup> *Laws of Iowa*, 1896, ch. 85, sec. 33.

<sup>347</sup> *Code of 1897*, sec. 1326.

<sup>348</sup> *Laws of Iowa*, 1913, ch. 119.

<sup>349</sup> *Biennial Report of the Auditor of State*, 1897, pp. 13-20, 161-257; *Biennial Report of the Auditor of State*, 1901, p. xi.

<sup>350</sup> *Biennial Report of the Auditor of State*, 1914, p. 438.

The following table compiled from the Auditor's reports indicates the almost steady decrease in the number of building and loan associations:

| YEAR | NUMBER | YEAR | NUMBER | YEAR | NUMBER |
|------|--------|------|--------|------|--------|
| 1897 | 117    | 1904 | 60     | 1912 | 47     |
| 1898 | 108    | 1905 | 57     | 1913 | 49     |
| 1899 | 101    | 1907 | 48     | 1914 | 50     |
| 1900 | 86     | 1909 | 49     |      |        |
| 1902 | 72     | 1911 | 47     |      |        |

#### CHAPTER X

<sup>351</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 470, 471.

<sup>352</sup> *Revised Statutes of the Territory of Iowa*, 1842-1843, ch. 160.

<sup>353</sup> *Code of 1851*, secs. 937-942, 2747, 2748. See also *Laws of the Territory of Iowa*, 1845-1846, ch. 22.

<sup>354</sup> *Laws of Iowa*, 1854-1855, chs. 5, 26, 34, joint resolution 33; *Laws of Iowa*, 1856-1857, ch. 165, joint resolution 28; *Laws of Iowa*, 1858, ch. 110; *Laws of Iowa* (special), 1860, ch. 108.

<sup>355</sup> *Laws of Iowa*, 1862, ch. 82.

<sup>356</sup> *Laws of Iowa*, 1864, ch. 56; *Laws of Iowa* (general), 1872, ch. 129.

<sup>357</sup> *Laws of Iowa*, 1868, ch. 195; *Laws of Iowa* (general), 1872, ch. 56; *Code of 1873*, secs. 2037-2074, 3802, 3803; *Laws of Iowa*, 1876, chs. 52, 89; *Laws of Iowa*, 1878, ch. 42; *Laws of Iowa*, 1880, ch. 21; *Code of 1897*, secs. 3009-3036, 5044; *Laws of Iowa*, 1902, ch. 129; *Laws of Iowa*, 1906, ch. 147.

<sup>358</sup> *Laws of Iowa*, 1911, ch. 154.

<sup>359</sup> *Laws of Iowa*, 1913, ch. 266; *Supplemental Supplement to the Code of Iowa*, 1915, Title XV, ch. 1, pp. 280-282; *Laws of Iowa*, 1917, chs. 57, 80, 251.

<sup>360</sup> *Laws of the Territory of Iowa*, 1838-1839, p. 457; *Revised Statutes of the Territory of Iowa*, 1842-1843, ch. 49, sec. 37, p. 191; *Code of 1851*, secs. 2725-2728, 2747-2752; *Laws of Iowa*, 1858, ch. 140; *Laws of Iowa*, 1868, ch. 195; *Laws of Iowa*, 1870, ch. 156; *Laws of Iowa*, 1880, chs. 39, 137; *Laws of Iowa*, 1882, ch. 170; *Laws of Iowa*, 1886, ch. 50.

- <sup>361</sup> *Laws of Iowa*, 1886, ch. 52, secs. 1-10.
- <sup>362</sup> *Laws of Iowa*, 1886, ch. 52, secs. 11-19.
- <sup>363</sup> *Laws of Iowa*, 1886, ch. 174; *Laws of Iowa*, 1888, chs. 79, 80, 81; concurrent resolution 1, p. 239.
- <sup>364</sup> *Laws of Iowa*, 1892, ch. 50. See also *Laws of Iowa*, 1888, ch. 98, and *Laws of Iowa*, 1892, joint resolution 14, p. 185.
- <sup>365</sup> *Laws of Iowa*, 1894, chs. 45, 46, 47; *Laws of Iowa*, 1896, ch. 101; *Laws of Iowa*, 1898, ch. 52.
- <sup>366</sup> *Code of 1897*, secs. 2515-2528, 4976-4999.
- <sup>367</sup> *Laws of Iowa*, 1900, ch. 85. See also *Laws of Iowa*, 1904, ch. 88.
- <sup>368</sup> *Laws of Iowa*, 1906, ch. 166.
- <sup>369</sup> *Laws of Iowa*, 1906, ch. 107.
- <sup>370</sup> *Laws of Iowa*, 1906, chs. 167, 168, 171, concurrent resolutions 6, 7; see also *Laws of Iowa*, 1902, ch. 102; *Laws of Iowa*, 1917, ch. 377.
- <sup>371</sup> *Laws of Iowa*, 1907, chs. 131, 132, 176, 177, 178, 179, 180, 182, 189, 190, concurrent resolution 6, p. 292.
- <sup>372</sup> *Laws of Iowa*, 1907, ch. 189.
- <sup>373</sup> *Laws of Iowa*, 1909, chs. 148, 221, 222.
- <sup>374</sup> *Laws of Iowa*, 1911. For the linseed oil law see ch. 110; for the oil of turpentine law see ch. 111; for the amendment relating to the Dairy and Food Commissioner see ch. 113.
- <sup>375</sup> *Laws of Iowa*, 1911, chs. 174, 175, 176, 177, 180, 181.
- <sup>376</sup> *Laws of Iowa*, 1913. For the cold storage law see ch. 199; for the calcium carbide law see ch. 200; for the sanitation law see ch. 201; for the commercial fertilizer law see ch. 202; for the fraudulent advertising law see ch. 309; and for the amendment to the misbranding law see ch. 307.
- <sup>377</sup> *Laws of Iowa*, 1913, ch. 199.
- <sup>378</sup> *Laws of Iowa*, 1913, ch. 200.
- <sup>379</sup> *Laws of Iowa*, 1913, ch. 201.
- <sup>380</sup> *Laws of Iowa*, 1913, ch. 202.
- <sup>381</sup> *Supplemental Supplement to the Code of Iowa*, 1915, secs. 2515, 2515-f; *Laws of Iowa*, 1917, chs. 80, 133, 190, 385, 406.
- <sup>382</sup> *Twenty-seventh Annual Report of the State Dairy Commissioner*, 1913, pp. 1-10.
- <sup>383</sup> *Laws of Iowa* (general), 1872, ch. 47. See also *Code of 1873*, sec. 3901.
- <sup>384</sup> *Laws of Iowa*, 1878, ch. 172.

<sup>385</sup> *Laws of Iowa*, 1884, ch. 185.

<sup>386</sup> *Laws of Iowa*, 1886, ch. 149; *Laws of Iowa*, 1888, ch. 82, sec. 8-b; *Laws of Iowa*, 1892, ch. 52; *Laws of Iowa*, 1896, chs. 92, 93, 94.

<sup>387</sup> *Code of 1897*, secs. 2503-2510; *Laws of Iowa*, 1898, chs. 61, 62; *Laws of Iowa*, 1900, ch. 83; *Laws of Iowa*, 1902, chs. 101, 168.

<sup>388</sup> *Laws of Iowa*, 1904, ch. 87.

<sup>389</sup> *Laws of Iowa*, 1906, chs. 105, 106, 169.

<sup>390</sup> *Laws of Iowa*, 1909, ch. 147; *Laws of Iowa*, 1911, chs. 108, 109; *Supplemental Supplement to the Code of Iowa*, 1915, Title XII, ch. 11.

<sup>391</sup> Mechem's *Elements of the Law of Partnership*, pp. 2, 3.

<sup>392</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 361-364.

<sup>393</sup> *Laws of the Territory of Wisconsin*, 1837-1838, ch. 47.

<sup>394</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 361-364.

<sup>395</sup> *Laws of the Territory of Iowa*, 1845-1846, ch. 30.

<sup>396</sup> *Laws of Iowa*, 1858, ch. 98.

<sup>397</sup> *Laws of Iowa*, 1862, ch. 128; *Laws of Iowa*, 1882, ch. 8; *Laws of Iowa*, 1904, ch. 2, sec. 9. See also *Code of 1873*, secs. 2147-2170; *Code of 1897*, secs. 3106-3121.

<sup>398</sup> *Laws of the Territory of Iowa*, 1838-1839, p. 64.

<sup>399</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 381-385.

<sup>400</sup> *Revised Statutes of the Territory of Iowa*, 1842-1843, ch. 106.

<sup>401</sup> *Code of 1851*, secs. 947-965; *Laws of Iowa*, 1852-1853, ch. 108, sec. 3; *Laws of Iowa*, 1858, ch. 79; *Laws of Iowa*, 1862, ch. 116; *Code of 1873*, secs. 2082-2103; *Laws of Iowa*, 1876, ch. 81; *Laws of Iowa*, 1880, ch. 31; *Laws of Iowa*, 1884, ch. 183; *Laws of Iowa*, 1888, ch. 90; *Laws of Iowa*, 1890, ch. 45; *Code of 1897*, secs. 3043-3060.

<sup>402</sup> Ebersole's *Encyclopedia of Iowa Law*, Third Supplement, Appendix, p. 1.

<sup>403</sup> *Laws of Iowa*, 1902, ch. 130. See also *Laws of Iowa*, 1906, chs. 149, 150; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 3060-a120. The divisions of the law are as follows:

| ARTICLE                          | SECTIONS |
|----------------------------------|----------|
| I. Form and Interpretation.....  | 1- 23.   |
| II. Consideration .....          | 24- 29.  |
| III. Negotiation .....           | 30- 50.  |
| IV. Rights of holder.....        | 51- 59.  |
| V. Liability of parties.....     | 60- 69.  |
| VI. Presentment for payment..... | 70- 88.  |

- VII. Notice of dishonor..... 89-118.  
 VIII. Discharge .....119-125.  
 IX. Bills of Exchange — form and interpretation.....126-131.  
 XIII. Acceptance of bills for honor.....161-170.  
 XI. Presentment of bills for acceptance.....143-151.  
 XII. Protest of bills of exchange.....152-160.  
 XIII. Acceptance of bills for honor.....161-170.  
 XIV. Payment of bills for honor.....171-177.  
 XV. Bills in a set.....178-183.  
 XVI. Promissory notes and checks.....184-189.  
 XVII. General provisions — statutes repealed — days of grace....190-198.
- <sup>404</sup> *Tompkins's The Law of Commercial Paper*, p. 268.  
<sup>405</sup> *Laws of Iowa*, 1862, ch. 84; *Laws of Iowa*, 1864, ch. 120.  
<sup>406</sup> *Laws of Iowa*, 1886, ch. 165. See also *Code of 1873*, secs. 2171-2184.  
<sup>407</sup> *Laws of Iowa*, 1892, ch. 44; *Laws of Iowa*, 1894, ch. 48; *Code of 1897*, secs. 3122-3129.  
<sup>408</sup> *Laws of Iowa*, 1907, ch. 160.  
<sup>409</sup> *Laws of Iowa*, 1907, ch. 160, sec. 56.  
<sup>410</sup> *Laws of Iowa*, 1911, ch. 155.  
<sup>411</sup> *Tompkins's The Law of Commercial Paper*, p. 275.  
<sup>412</sup> *Report of the American Bar Association*, Vol. XXXIX, 1914, pp. 1085-1091.  
<sup>413</sup> *Ames's Uniform Commercial Legislation in The Green Bag*, Vol. XXIII, p. 623.  
<sup>414</sup> *Code of 1851*, secs. 2750, 2751.  
<sup>415</sup> *Laws of Iowa*, 1892, ch. 36.  
<sup>416</sup> *Laws of Iowa*, 1894, ch. 79.  
<sup>417</sup> *Laws of Iowa*, 1911, ch. 156; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 2515-f.  
<sup>418</sup> *Ebersole's Encyclopedia of Iowa Law*, p. 668.  
<sup>419</sup> *Downey's History of Labor Legislation in Iowa*, pp. 7, 8.  
<sup>420</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 327-329; *Laws of the Territory of Iowa*, 1839-1840, ch. 55; *Revised Statutes of the Territory of Iowa*, 1842-1843, ch. 92.  
<sup>421</sup> *Code of 1851*, secs. 981-1010.  
<sup>422</sup> *Laws of Iowa*, 1856-1857, ch. 220; *Laws of Iowa*, 1858, ch. 39; *Revision of 1860*, ch. 79, secs. 1845-1873.

<sup>423</sup> *Laws of Iowa*, 1862, ch. 111; *Laws of Iowa*, 1870, ch. 140; *Laws of Iowa* (general), 1872, ch. 12; *Laws of Iowa* (public), 1874, chs. 44, 49; *Code of 1873*, secs. 2129-2146.

<sup>424</sup> *Laws of Iowa*, 1876, ch. 100; *Laws of Iowa*, 1884, ch. 179; *Laws of Iowa*, 1890, ch. 47; *Laws of Iowa*, 1894, ch. 16; *Code of 1897*, secs. 3088-3105, 3447; *Laws of Iowa*, 1913, chs. 155, 267; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 3094.

<sup>425</sup> See Downey's *History of Labor Legislation in Iowa*, pp. 10, 11.

<sup>426</sup> Downey's *History of Labor Legislation in Iowa*, p. 11.

<sup>427</sup> Ebersole's *Encyclopedia of Iowa Law*, p. 387.

<sup>428</sup> *Code of 1851*, secs. 977, 978.

<sup>429</sup> *Laws of Iowa*, 1856-1857, ch. 254. See also *Laws of Iowa*, 1858, ch. 112; *Code of 1873*, secs. 2115-2128.

<sup>430</sup> *Laws of Iowa*, 1876, ch. 14; *Laws of Iowa*, 1884, ch. 124; *Laws of Iowa*, 1886, ch. 115; *Laws of Iowa*, 1890, ch. 48; *Laws of Iowa*, 1894, ch. 93; *Code of 1897*, secs. 3071-3087.

<sup>431</sup> *Laws of Iowa*, 1906, ch. 148.

<sup>432</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 276, 277; *Revised Statutes of the Territory of Iowa*, 1842-1843, ch. 81.

<sup>433</sup> *Code of 1851*, secs. 943-946; *Laws of Iowa*, 1852-1853, ch. 37.

<sup>434</sup> *Laws of Iowa*, 1890, ch. 40; *Laws of Iowa*, 1896, ch. 90; *Code of 1897*, secs. 3037-3042; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 3041-a.

<sup>435</sup> *Code of 1851*, secs. 966-969; *Code of 1897*, secs. 3061-3063.

<sup>436</sup> *Code of 1851*, secs. 970-973; *Code of 1897*, secs. 3064-3067.

<sup>437</sup> *Laws of Iowa*, 1884, ch. 93; *Laws of Iowa*, 1886, ch. 165; *Laws of Iowa*, 1888, chs. 28, 78; *Laws of Iowa*, 1890, ch. 28; *Laws of Iowa*, 1896, ch. 22; *Laws of Iowa*, 1907, chs. 187, 188; *Laws of Iowa*, 1909, chs. 222, 225; *Laws of Iowa*, 1913, chs. 295, 310.

<sup>438</sup> *Laws of Iowa*, 1911, ch. 150; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 2911-a, 2911-b; *Laws of Iowa*, 1917, ch. 64.

<sup>439</sup> *Laws of Iowa* (adjourned session), 1873, ch. 2; *Laws of the Territory of Iowa*, 1843-1844, ch. 25; *Laws of Iowa* (extra session), 1848, ch. 28; *Code of 1851*, secs. 510-513; *Laws of Iowa*, 1852-1853, ch. 69, sec. 17; *Laws of Iowa* (public), 1874, ch. 62; *Code of 1873*, secs. 906, 907; *Laws of Iowa*, 1898, ch. 32; *Laws of Iowa*, 1904, ch. 48; *Laws of Iowa*, 1907, ch. 59.

*Laws of the Territory of Iowa*, 1838-1839, pp. 343-346; *Laws of the Territory of Iowa*, 1839-1840, ch. 83; *Revised Statutes of the Territory of Iowa*, 1842-1843, chs. 19, 102; *Laws of Iowa* (extra session), 1848, ch. 9.

<sup>440</sup> *Laws of Iowa*, 1855, memorial 6; *Laws of Iowa*, 1856-1857, joint resolution 13; *Laws of Iowa*, 1872, joint resolution 15; *Laws of Iowa*, 1882, joint resolution 10; *Laws of Iowa*, 1886, joint resolution 2; *Laws of Iowa*, 1890, joint resolution 2; *Laws of Iowa*, 1894, joint resolution 1.

*Laws of Iowa*, 1856-1857, joint resolution 14; *Laws of Iowa*, 1855, joint resolution 32; *Laws of Iowa*, 1874, concurrent resolution 1; *Laws of Iowa*, 1876, joint resolution 7; *Laws of Iowa*, 1880, joint resolution 12; *Laws of Iowa*, 1882, joint resolutions 3, 9.

<sup>441</sup> *Laws of Iowa*, 1856-1857, joint resolutions 4, 8; *Laws of Iowa*, 1855, joint resolution 31; *Laws of Iowa*, 1874, joint resolutions 13, 14, 19, concurrent resolution 2; *Laws of Iowa*, 1878, joint resolution 2; *Laws of Iowa*, 1880, joint resolution 2; *Laws of Iowa*, 1884, joint resolution 4; *Laws of Iowa*, 1894, joint resolution 7; *Laws of Iowa*, 1902, concurrent resolution 14; *Laws of Iowa*, 1913, ch. 334.

*Laws of the Territory of Iowa*, 1839-1840, joint resolutions 13, 14, 16, 23; *Laws of the Territory of Iowa*, 1843-1844, joint resolutions 6, 8, 9, 13; *Laws of the Territory of Iowa*, 1845, joint resolutions 3, 4; *Laws of the Territory of Iowa*, 1845-1846, joint resolutions 7, 9, 11; *Laws of Iowa*, 1846-1847, joint resolutions 3, 9, 10, 11, 13, 15, 16, 18; *Laws of Iowa* (extra session), 1848, joint resolutions 4, 10, 12, 14, 23; *Laws of Iowa*, 1848-1849, joint resolutions 4, 6, 10, 18, 19, 20, 21, 22, 23, 27, 29, 31, 33, 34, 37, memorial 5; *Laws of Iowa*, 1850-1851, joint resolutions 12, 28, 34; *Laws of Iowa*, 1852-1853, joint resolutions 13, 15, memorial 2; *Laws of Iowa*, 1855, joint resolutions 2, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 17, 19, 21, 22, 23, 26, 27, 29, 30, 34, 37, memorials 1, 2, 3, 4, 7; *Laws of Iowa* (extra session), 1856, joint resolution 5; *Laws of Iowa*, 1862, joint resolutions 8, 12; *Laws of Iowa*, 1864, joint resolution p. 186; *Laws of Iowa*, 1868, joint resolution 18; *Laws of Iowa*, 1870, joint resolutions 7, 8, 12, 18.

## CHAPTER XI

<sup>442</sup> For a comprehensive study of labor legislation in Iowa up to 1909 see Downey's *History of Labor Legislation in Iowa*.

<sup>443</sup> See above pp. 243-246.

<sup>444</sup> *Laws of Iowa*, 1890, ch. 48; *Code of 1851*, secs. 1490, 1901; *Code of 1873*, secs. 2211, 2240, 3074; *Code of 1897*, secs. 3162, 3191, 4013; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 3041-a.

<sup>445</sup> *Laws of Iowa*, 1888, ch. 55; *Laws of Iowa*, 1894, ch. 98; *Laws of Iowa*, 1900, ch. 81; *Laws of Iowa*, 1904, ch. 124; *Laws of Iowa*, 1913, ch. 249; *Supplemental Supplement to the Code of Iowa*, 1915, secs. 2110-b1, 2110-b2.

<sup>446</sup> Downey's *History of Labor Legislation in Iowa*, p. 18.

<sup>447</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 365-369.

<sup>448</sup> *Laws of the Territory of Iowa*, 1840-1841, ch. 71.

<sup>449</sup> *Laws of the Territory of Iowa*, 1845-1846, ch. 20.

<sup>450</sup> *Laws of Iowa*, 1848-1849, ch. 70.

<sup>451</sup> *Laws of Iowa*, 1852-1853, ch. 14. See also *Journal of the Senate*, 1854-1855, Appendix, pp. 23-25.

<sup>452</sup> *Supplemental Supplement to the Code of Iowa*, 1915, sec. 5718-a11; *Laws of Iowa*, 1917, ch. 328.

For other acts pertaining to the leasing of convict labor see *Laws of Iowa* (public), 1872, ch. 43; *Laws of Iowa* (local), 1874, ch. 35; *Laws of Iowa*, 1876, ch. 97; *Laws of Iowa*, 1878, ch. 110; *Laws of Iowa*, 1880, ch. 149; *Laws of Iowa*, 1886, ch. 153; *Laws of Iowa*, 1900, ch. 138.

For acts pertaining to the working of convicts on the roads and in stone quarries see *Laws of Iowa*, 1876, ch. 40, sec. 7; *Laws of Iowa*, 1878, ch. 187; *Laws of Iowa*, 1880, ch. 154; *Laws of Iowa*, 1894, ch. 20; *Code of 1897*, secs. 5707, 5708; *Laws of Iowa*, 1900, ch. 138; *Laws of Iowa*, 1902, ch. 155; *Laws of Iowa*, 1907, ch. 192, sec. 7, ch. 194; *Laws of Iowa*, 1913, chs. 134, 318.

<sup>453</sup> *Sixteenth Biennial Report of the State Mine Inspectors*, 1912, p. 101.

<sup>454</sup> *Iowa Geological Survey*, Vol. XXIV, p. 3.

<sup>455</sup> *Laws of the Territory of Iowa*, 1838-1839, p. 329.

<sup>456</sup> Downey's *History of Labor Legislation in Iowa*, pp. 33, 35.

<sup>457</sup> *Laws of Iowa* (general), 1872, ch. 44; *Laws of Iowa* (general), 1874, ch. 31.

<sup>458</sup> *Laws of Iowa*, 1880, ch. 202.

<sup>459</sup> *Laws of Iowa*, 1884, ch. 21.

The time for making the report by the mine inspector was changed by the *Laws of Iowa*, 1882, ch. 175.

<sup>460</sup> Downey's *History of Labor Legislation in Iowa*, p. 38.

<sup>461</sup> *Laws of Iowa*, 1886, ch. 140.

A change was made in the method of filing charges for removal of the State mine inspector by *Laws of Iowa*, 1886, ch. 43.

<sup>462</sup> *Laws of Iowa*, 1888, ch. 52.

<sup>463</sup> *Laws of Iowa*, 1900, ch. 82; *Laws of Iowa*, 1902, ch. 98; *Laws of Iowa*, 1904, ch. 86; *Laws of Iowa*, 1911, ch. 106, sec. 43.

<sup>464</sup> *Code of 1897*, sec. 2483; *Laws of Iowa*, 1900, ch. 79; *Laws of Iowa*, 1907, ch. 129; *Laws of Iowa*, 1911, ch. 107.

*Code of 1897*, sec. 2478; *Laws of Iowa*, 1911, ch. 106, sec. 1; *Laws of Iowa*, 1913, ch. 197; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 2478; *Laws of Iowa*, 1911, ch. 106, sec. 2.

<sup>465</sup> *Laws of Iowa*, 1902, chs. 99, 100; *Laws of Iowa*, 1906, ch. 103, sec. 6; *Laws of Iowa*, 1913, ch. 198, sec. 6.



<sup>466</sup> *Laws of Iowa*, 1890, joint resolution and memorial, p. 185; *Laws of Iowa*, 1896, chs. 92, 93; *Laws of Iowa*, 1898, chs. 59, 60; *Laws of Iowa*, 1906, ch. 3, sec. 3, ch. 5; *Laws of Iowa*, 1907, ch. 130; *Laws of Iowa*, 1909, ch. 146. See also *Code of 1897*, secs. 2478-2496.

<sup>467</sup> *Laws of Iowa*, 1890, ch. 47; *Laws of Iowa*, 1888, chs. 53, 54, 55, 57; *Laws of Iowa*, 1894, ch. 98; *Laws of Iowa*, 1900, chs. 80, 81.

<sup>468</sup> *Laws of Iowa*, 1911, ch. 106.

<sup>469</sup> A more elaborate system of reports is demanded of those employers who choose to come under the Workmen's Compensation Law of 1913.—See *Laws of Iowa*, 1913, ch. 147, sec. 37.

<sup>470</sup> A few slight changes were made in the law of 1911 by the Thirty-sixth General Assembly.—See *Supplemental Supplement to the Code of Iowa*, 1915, secs. 2489-a10, 2489-a12.

<sup>471</sup> *Laws of Iowa*, 1913, ch. 198.

<sup>472</sup> Downey's *History of Labor Legislation in Iowa*, pp. 76, 77.

<sup>473</sup> *Code of 1851*, sec. 1010; *Laws of Iowa* (public), 1872, ch. 12; *Code of 1873*, sec. 2130; *Laws of Iowa*, 1876, ch. 100, sec. 5; *Code of 1897*, secs. 3089, 3091.

<sup>474</sup> *Laws of Iowa*, 1890, ch. 18; *Laws of Iowa*, 1892, ch. 23; *Laws of Iowa*, 1898, chs. 50, 51.

<sup>475</sup> *Laws of Iowa*, 1907, ch. 109.

<sup>476</sup> *Laws of Iowa*, 1907, ch. 103.

<sup>477</sup> *Laws of Iowa*, 1907, ch. 110; *Laws of Iowa*, 1909, ch. 126; *Laws of Iowa*, 1911, ch. 93; *Laws of Iowa*, 1913, ch. 167; *Supplemental Supplement to the Code of Iowa*, 1915, secs. 2110-b1, 2110-b2.

<sup>478</sup> *Laws of Iowa*, 1907, ch. 37; *Laws of Iowa*, 1909, chs. 51, 52; *Laws of Iowa*, 1911, ch. 38.

<sup>479</sup> *Laws of Iowa*, 1884, ch. 132; *Laws of Iowa*, 1894, ch. 131, sec. 3; *Laws of Iowa*, 1896, ch. 86, sec. 1; *Laws of Iowa*, 1904, ch. 85; *Laws of Iowa*, 1909, ch. 144; *Laws of Iowa*, 1913, ch. 196, sec. 3.

<sup>480</sup> *Laws of Iowa*, 1884, ch. 132, sec. 3; *Laws of Iowa*, 1896, ch. 86, sec. 1; *Laws of Iowa*, 1904, ch. 85; *Laws of Iowa*, 1907, chs. 126, 127; *Laws of Iowa*, 1909, ch. 144; *Laws of Iowa*, 1913, ch. 196, sec. 3.

<sup>481</sup> *Laws of Iowa*, 1884, ch. 132.

<sup>482</sup> *Laws of Iowa*, 1896, ch. 86.

The law is consolidated in the *Code of 1897*, secs. 2469-2477.

<sup>483</sup> *Laws of Iowa*, 1902, ch. 97.

<sup>484</sup> *Laws of Iowa*, 1902, ch. 149; *Laws of Iowa*, 1904, ch. 136, sec. 5; *Laws of*

*Iowa*, 1906, ch. 103, sec. 6; *Laws of Iowa*, 1907, ch. 128. See also *Laws of Iowa*, 1904, joint resolution 4, p. 209.

<sup>485</sup> *Laws of Iowa*, 1913, ch. 196; *Supplemental Supplement to the Code of Iowa*, 1915, secs. 2470, 2473.

<sup>486</sup> *Supplemental Supplement to the Code of Iowa*, 1915, secs. 2477-g1, 2477-g2, 2477-g3.

<sup>487</sup> Downey's *History of Labor Legislation in Iowa*, pp. 95, 96.

<sup>488</sup> *Laws of Iowa*, 1902, ch. 149.

A law for the preservation of the health of female employees which required seats to be provided for such employees was passed in 1892.—*Laws of Iowa*, 1892, ch. 47.

<sup>489</sup> *Laws of Iowa*, 1911, chs. 171, 172.

<sup>490</sup> *Laws of Iowa* (public), 1874, ch. 14; *Laws of Iowa*, 1882, ch. 89, sec. 7. See Downey's *History of Labor Legislation in Iowa*, pp. 97, 98.

<sup>491</sup> *Laws of Iowa*, 1882, ch. 89, sec. 4; *Laws of Iowa*, 1888, ch. 1, sec. 17.

<sup>492</sup> *Laws of Iowa*, 1902, ch. 150.

<sup>493</sup> *Laws of Iowa*, 1904, ch. 136.

<sup>494</sup> *Supplemental Supplement to the Code of Iowa*, 1915, secs. 4999-a6, 4999-a7, 4999-a8, 4999-a9, 4999-a10, 4999-a11.

See also *Laws of Iowa*, 1909, chs. 168, 220; *Laws of Iowa*, 1911, ch. 123; *Laws of Iowa*, 1913, ch. 305.

<sup>495</sup> *Laws of Iowa* (public), 1874, ch. 31, sec. 5; *Laws of Iowa*, 1880, ch. 202, sec. 13; *Laws of Iowa*, 1884, ch. 21, sec. 13; *Code of 1897*, sec. 2489; *Laws of Iowa*, 1906, ch. 103, sec. 1.

<sup>496</sup> Downey's *History of Labor Legislation in Iowa*, pp. 112-117.

<sup>497</sup> *Laws of Iowa*, 1902, chs. 128, 149, sec. 2.

<sup>498</sup> Downey's *History of Labor Legislation in Iowa*, pp. 121-143.

<sup>499</sup> *Laws of Iowa*, 1906, ch. 103.

<sup>500</sup> *Laws of Iowa*, 1909, ch. 145.

<sup>501</sup> Haynes's *Child Labor Legislation in Iowa* in *Iowa Applied History Series*, Vol. II, pp. 597, 598.

<sup>502</sup> *Supplemental Supplement to the Code of Iowa*, 1915, secs. 2477-a, 2477-a1, 2477-b, 2477-c, 2477-d.

<sup>503</sup> *Code of 1851*, sec. 2758; *Code of 1897*, sec. 5059.

*Laws of Iowa*, 1866, ch. 135; *Laws of Iowa*, 1868, ch. 45; *Laws of Iowa* (public), 1874, ch. 38; *Code of 1897*, sec. 5025.

<sup>504</sup> *Laws of Iowa*, 1886, ch. 71.

<sup>505</sup> *Laws of Iowa*, 1888, ch. 57; *Laws of Iowa*, 1892, ch. 36; *Code of 1897*, secs. 5049, 5051; *Laws of Iowa*, 1892, ch. 33, sec. 24; *Code of 1897*, sec. 1123; *Laws of Iowa*, 1884, ch. 200, sec. 14; *Code of 1897*, sec. 1535.

<sup>506</sup> *Laws of Iowa*, 1907, chs. 31, 128; *Supplemental Supplement to the Code of Iowa*, 1915, secs. 2477-g1, 2477-g2, 2477-g3.

<sup>507</sup> Downey's *History of Labor Legislation in Iowa*, pp. 191, 192; *Laws of Iowa*, 1886, ch. 20.

<sup>508</sup> *Laws of Iowa*, 1913, ch. 292.

<sup>509</sup> Briggs's *Social Legislation in Iowa*, pp. 268, 269.

<sup>510</sup> Downey's *History of Labor Legislation in Iowa*, pp. 182, 183.

<sup>511</sup> *Laws of Iowa*, 1862, ch. 169, sec. 7.

<sup>512</sup> *Laws of Iowa*, 1870, ch. 121.

<sup>513</sup> *Laws of Iowa* (public), 1872, ch. 65.

<sup>514</sup> *Code of 1873*, sec. 1307; *Code of 1897*, sec. 2071.

<sup>515</sup> *Code of 1873*, sec. 1278; *Code of 1897*, sec. 2039; *Laws of Iowa*, 1902, ch. 31.

<sup>516</sup> *Laws of Iowa*, 1890, ch. 18, sec. 6; *Code of 1897*, sec. 2083.

<sup>517</sup> *Laws of Iowa*, 1907, ch. 181.

<sup>518</sup> *Laws of Iowa*, 1909, chs. 124, 219.

<sup>519</sup> Downey's *History of Labor Legislation in Iowa*, pp. 210, 211.

<sup>520</sup> Briggs's *Social Legislation in Iowa*, p. 271.

<sup>521</sup> Downey's *History of Work Accident Indemnity in Iowa*, p. 156.

<sup>522</sup> *Laws of Iowa*, 1911, ch. 205.

See also the *Report of Employers' Liability Commission*, 1912, pp. 3, 4.

<sup>523</sup> *Report of Employers' Liability Commission*, 1912, pp. 26-49.

<sup>524</sup> Horack's *The Work of the Thirty-fifth General Assembly of Iowa in The Iowa Journal of History and Politics*, Vol. XI, pp. 588-599.

See also *Laws of Iowa*, 1913, ch. 147.

<sup>525</sup> *Laws of Iowa*, 1917, chs. 67, 188, 270, 336, 409, 418.

<sup>526</sup> Sampson's *Legal Opinions on Various Phases of the Iowa Workmen's Compensation Act*, being a pamphlet issued by the Iowa Industrial Commission, 1915, pp. 24, 25; *The Register and Leader* (Des Moines), June 23, 1914, p. 1.

## CHAPTER XII

<sup>527</sup> *Keokuk v. Scroggs*, 39 Iowa 447.

<sup>528</sup> *Laws of the Territory of Wisconsin*, 1836, p. 65. This law was repealed in 1840. See *Laws of the Territory of Iowa* (extra session), 1840, ch. 29.

<sup>529</sup> Special charters were granted to about forty towns and cities, some of which were granted as many as four different charters. For the acts granting these charters see *Laws of the Territory of Wisconsin*, 1837-1838, chs. 84, 86; *Laws of the Territory of Iowa*, 1838-1839, pp. 248, 265; *Laws of the Territory of Iowa*, 1839-1840, ch. 52; *Laws of the Territory of Iowa*, 1840-1841, chs. 44, 80, 89; *Laws of the Territory of Iowa*, 1841-1842, chs. 19, 57, 89, 122; *Laws of the Territory of Iowa*, 1842-1843, ch. 25; *Laws of the Territory of Iowa*, 1843-1844, ch. 138; *Laws of the Territory of Iowa*, 1845, ch. 54; *Laws of the Territory of Iowa*, 1845-1846, ch. 123; *Laws of Iowa*, 1846-1847, chs. 38, 79, 82, 110; *Laws of Iowa* (extra session), 1848, ch. 64; *Laws of Iowa*, 1848-1849, chs. 3, 87; *Laws of Iowa*, 1850-1851, chs. 32, 43, 50, 52, 55, 62, 82, 88; *Laws of Iowa*, 1852-1853, chs. 27, 63, 64; *Laws of Iowa*, 1854-1855, chs. 11, 18, 71, 85, 89, 91, 102; *Laws of Iowa* (extra session), 1856, chs. 15, 16, 20, 23; *Laws of Iowa*, 1856-1857, chs. 41, 42, 44, 100, 121, 122, 128, 137, 150, 152, 163, 185, 197, 202, 210, 211, 238, 253.

In addition to granting these special charters the legislature made many amendments to them after they were granted.

<sup>530</sup> *Laws of the Territory of Iowa*, 1838-1839, p. 248.

<sup>531</sup> *Laws of the Territory of Iowa*, 1838-1839, p. 265.

<sup>532</sup> *Laws of the Territory of Iowa*, 1841-1842, ch. 57, secs. 8, 16.

<sup>533</sup> For examples see *Laws of Iowa*, 1856-1857, chs. 41, 121, or 202.

The powers granted to the city of Davenport by the special charter of 1855 were as follows: "to provide the city with water; to erect hydrants and pumps in the streets for the convenience of the inhabitants; to open, alter, abolish, widen, extend, establish, grade, pave, or otherwise improve and keep in repair streets, avenues, lanes and alleys; to establish, erect and keep in repair bridges . . . to provide for lighting the streets, and erecting lamp posts . . . to erect market houses, establish markets and market places, and provide for the government and regulation thereof . . . to improve and preserve the navigation of the Mississippi river within the limits of the city; to erect, repair and regulate public wharves and docks; to regulate the erection and repair of private wharves, and the rates of wharfage thereat; to license, tax, and regulate auctioneers, transient merchants, retailers and grocers, taverns, ordinaries, hawkers, pedlars, brokers, pawnbrokers and money changers; to license, tax, and regulate hackney carriages, wagons, carts and drays, and fix the rates to be charged for the carriage of persons, and for wagonage, cartage, and drayage of property; to license and regulate porters, and fix the rates of portorage . . . to provide for the prevention and

extinguishment of fires, and to organize and establish fire companies; to regulate or prohibit the erection of wooden buildings in any part of the city . . . to establish standard weights and measures, and to regulate the weights and measures to be used in the city, in all cases not otherwise provided for by law. To provide for the inspection and measuring of lumber and other building materials, and for the measurement of all kinds of mechanical work; to provide for the inspection and weighing of hay and stone coal, the measuring of charcoal, fire wood and other fuel to be sold or used in the city; to provide for, and regulate inspection of tobacco, beef, pork, flour, meal and whiskey, in barrels; to regulate the weight, quality and price of bread to be sold and used in the city".—*Laws of Iowa*, 1850–1851, ch. 55, Art. V, sec. 2, pp. 117, 118.

See also Art. VIII.

Provisions in other charters authorized the towns to subscribe for stock in railroad companies and pay for the same by an issue of city bonds, to license and regulate insurance companies, to subscribe for stock in plank road companies, to regulate broker and loan offices, and to license and regulate many other businesses. See *Laws of the Territory of Iowa*, 1845, ch. 54; *Laws of Iowa*, 1852–1853, ch. 49, sec. 2, ch. 77, sec. 10; *Laws of Iowa*, 1850–1851, ch. 67, sec. 1; *Laws of Iowa*, 1856–1857, ch. 102, sec. 15, ch. 127, sec. 19, ch. 185, sec. 14, ch. 210, sec. 7, ch. 253, secs. 16–20.

<sup>534</sup> *Laws of Iowa*, 1846–1847, ch. 117.

<sup>535</sup> *Code of 1851*, ch. 42. See secs. 665, 666, 670, 671, 672.

<sup>536</sup> *Constitution of the State of Iowa*, 1857, Art. III, sec. 30.

<sup>537</sup> *Laws of Iowa*, 1858, ch. 157, secs. 28–40.

<sup>538</sup> *Laws of Iowa*, 1858, ch. 157, sec. 41.

<sup>539</sup> *Laws of Iowa* (general), 1872, ch. 78.

<sup>540</sup> For the other laws of the period 1851–1873 which relate to the ordinance power of cities see *Laws of Iowa*, 1862, ch. 97; *Laws of Iowa*, 1870, chs. 80, 179; *Laws of Iowa* (general), 1872, chs. 1, 13, 45, 78, 98, 130. See also *Code of 1873*, secs. 454–500, 525–529.

<sup>541</sup> *Keokuk v. Scroggs*, 39 Iowa 447; *Code of 1897*, sec. 695.

<sup>542</sup> *Supplement to the Code of Iowa*, 1913, secs. 696, 700, 700-f, 737, 737-a; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 701-a.

<sup>543</sup> *Code of 1897*, secs. 710–715; *Supplement to the Code of Iowa*, 1913, secs. 709-a, 711, 713-a, 713-b; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 711-a.

<sup>544</sup> *Code of 1897*, sec. 716.

<sup>545</sup> *Code of 1897*, sec. 717.

<sup>546</sup> *Code of 1897*, secs. 718, 719.

<sup>547</sup> *Supplement to the Code of Iowa*, 1913, sec. 720.

<sup>548</sup> *Supplement to the Code of Iowa*, 1913, secs. 721, 722, 724; *Code of 1897*, sec. 723.

<sup>549</sup> *Supplement to the Code of Iowa*, 1913, sec. 725.

<sup>550</sup> *Supplement to the Code of Iowa*, 1913, secs. 741-w, 741-w1, 741-w2.

<sup>551</sup> *Supplement to the Code of Iowa*, 1913, Title V, ch. 5.

<sup>552</sup> *Supplemental Supplement to the Code of Iowa*, 1915, sec. 751; *Code of 1897*, secs. 752, 753.

<sup>553</sup> *Code of 1897*, sec. 754; *Supplemental Supplement to the Code of Iowa*, 1915, sec. 754-a.

<sup>554</sup> *Code of 1897*, sec. 767.

<sup>555</sup> *Code of 1897*, sec. 775; *Supplement to the Code of Iowa*, 1913, sec. 776.

<sup>556</sup> *Supplement to the Code of Iowa*, 1913, sec. 792; *Code of 1897*, sec. 794.

<sup>557</sup> *Supplemental Supplement to the Code of Iowa*, 1915, sec. 849-a.

<sup>558</sup> *Supplement to the Code of Iowa*, 1913, secs. 720, 721.

See also Downey's *Urban Utilities in Iowa* in *Iowa Applied History Series*, Vol. I, pp. 187-189.

<sup>559</sup> Downey's *Urban Utilities in Iowa* in *Iowa Applied History Series*, Vol. I, pp. 188, 189.

*Supplement to the Code of Iowa*, 1913, sec. 776; *Code of 1897*, secs. 767, 775.

<sup>560</sup> *Code of 1897*, sec. 2158; *Chamberlain v. Iowa Telephone Company*, 119 Iowa 619 (1903).

<sup>561</sup> *Farmers Telephone Company v. Washta*, 157 Iowa 447 (1912).

<sup>562</sup> Downey's *Urban Utilities in Iowa* in *Iowa Applied History Series*, Vol. I, pp. 189, 190.

*Supplement to the Code of Iowa*, 1913, secs. 720, 725; *Code of 1897*, secs. 767, 775, 834.

<sup>563</sup> Downey's *Urban Utilities in Iowa* in *Iowa Applied History Series*, Vol. I, pp. 190, 191.

*Supplement to the Code of Iowa*, 1913, secs. 720, 724, 741-a.

### CHAPTER XIII

<sup>564</sup> The writer wishes to acknowledge that he has made very free use of Mr. John E. Brindley's *History of Taxation in Iowa*, in the preparation of this chapter.

<sup>565</sup> Ely's *Taxation in American States and Cities*, p. 55.

<sup>566</sup> See Brindley's *History of Taxation in Iowa*, Vol. I, p. 3.

<sup>567</sup> *United States Statutes at Large*, Vol. V, p. 237. The Organic Act may be found also in *Laws of the Territory of Iowa*, 1838-1839, p. 34, sec. 6.

<sup>568</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 401-418, 419. These acts were approved on January 24 and 25 respectively, 1839. They are almost exact copies of acts which had been passed by the Legislative Assembly of the original Territory of Wisconsin about a year earlier.— See *Laws of the Territory of Wisconsin*, 1837-1838, chs. 68, 93.

<sup>569</sup> *Laws of the Territory of Iowa*, 1838-1839, p. 401, sec. 1.

<sup>570</sup> *Laws of the Territory of Iowa*, 1838-1839, p. 401, secs. 1, 2. For the other provisions pertaining to licenses see secs. 44-48.

<sup>571</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 401-403, secs. 3-6.

<sup>572</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 403, 404, secs. 7-12.

<sup>573</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 404-406, secs. 13-17.

<sup>574</sup> *Laws of the Territory of Iowa*, 1838-1839, pp. 418, 419.

<sup>575</sup> Brindley's *History of Taxation in Iowa*, Vol. I, p. 7.

<sup>576</sup> Brindley's *History of Taxation in Iowa*, Vol. I, p. 8.

<sup>577</sup> *Laws of the Territory of Iowa*, 1839-1840, ch. 49.

<sup>578</sup> *Laws of the Territory of Iowa*, 1839-1840, ch. 12.

<sup>579</sup> *Laws of the Territory of Iowa*, 1840-1841, ch. 70.

<sup>580</sup> *Laws of the Territory of Iowa*, 1840-1841, ch. 90.

<sup>581</sup> *Revised Statutes of the Territory of Iowa*, 1842-1843, ch. 132. See also Brindley's *History of Taxation in Iowa*, Vol. I, pp. 12-14.

The provisions pertaining to the Territorial revenue were inconsistent in this act. Section 15 provides for a rate of half a mill on the dollar; section 51 provides for a tax of one-quarter mill on all taxable property.— *Revised Statutes of the Territory of Iowa*, 1842-1843, ch. 132, secs. 15, 51.

<sup>582</sup> *Laws of the Territory of Iowa*, 1843-1844, ch. 21.

An amendatory act was also passed by this same Legislative Assembly which provided for the filling of vacancies in the office of collector.— See ch. 1, p. 1.

A separate act for assessing Territorial tax was also passed at this session of the Legislative Assembly.— See ch. 29, p. 52.

<sup>583</sup> *Laws of the Territory of Iowa*, 1845, ch. 5. See also Brindley's *History of Taxation in Iowa*, Vol. I, pp. 14-17.

<sup>584</sup> *Laws of the Territory of Iowa*, 1845-1846, ch. 7.

An additional tax of "three-fourths of one mill per cent." was authorized in 1846.— See *Laws of the Territory of Iowa*, 1845-1846, ch. 13.

<sup>585</sup> Brindley's *History of Taxation in Iowa*, Vol. I, pp. 16-22.

<sup>586</sup> *Constitution of the State of Iowa*, 1846, Art. I, sec. 6; Art. III, sec. 10.

<sup>587</sup> See Brindley's *History of Taxation in Iowa*, Vol. I, pp. 23-29.

<sup>588</sup> *Laws of Iowa*, 1846-1847, ch. 100.

<sup>589</sup> *Laws of Iowa* (extra session), 1848, ch. 63. See also *Laws of Iowa*, 1848-1849, ch. 92.

<sup>590</sup> *Code of 1851*, Title VI, ch. 37.

<sup>591</sup> *Code of 1851*, ch. 37, sec. 454, ch. 38, secs. 568, 569.

<sup>592</sup> *Code of 1851*, ch. 37, sec. 456.

<sup>593</sup> *Code of 1851*, ch. 38, secs. 567, 588.

<sup>594</sup> *Code of 1851*, ch. 37, secs. 510, 511, 512.

<sup>595</sup> *Code of 1851*, ch. 37, sec. 455.

<sup>596</sup> *Code of 1851*, ch. 37, secs. 457, 466, 467.

<sup>597</sup> *Code of 1851*, ch. 37, secs. 468, 469.

<sup>598</sup> *Code of 1851*, ch. 37, secs. 480, 481, 482, 484, ch. 39, sec. 614.

<sup>599</sup> *Code of 1851*, ch. 37, secs. 495-510.

<sup>600</sup> Brindley's *History of Taxation in Iowa*, Vol. I, p. 40.

<sup>601</sup> *Laws of Iowa*, 1852-1853, ch. 69.

<sup>602</sup> *Laws of Iowa*, 1856-1857, ch. 146.

For other minor amendments see *Laws of Iowa*, 1854-1855, chs. 109, 162.

<sup>603</sup> *Constitution of the State of Iowa*, 1857, Art. I, sec. 6, Art. III, sec. 30, Art. VIII, sec. 2.

<sup>604</sup> *Constitution of the State of Iowa*, 1857, Art. XI, sec. 3, Art. VII, secs. 1, 2.

<sup>605</sup> *Laws of Iowa*, 1858, ch. 152.

This same General Assembly passed several amendatory acts pertaining to delinquent taxes in municipalities, assessment, and equalization.—See *Laws of Iowa*, 1858, chs. 90, 105, 111, 145.

<sup>606</sup> *Laws of Iowa*, 1858, ch. 154, sec. 6.

<sup>607</sup> *Revision of 1860*, ch. 45.

<sup>608</sup> *Revision of 1860*, ch. 45, secs. 750-790.

<sup>609</sup> *Revision of 1860*, ch. 45, sec. 710.

Almost none of chapter 37 of the *Code of 1851* was in force by virtue of its original enactment by 1860 although most of it was by subsequent enactment. A part was repealed by ch. 69 of the *Laws of Iowa*, 1852-1853. More of it was repealed, as well as the last named act, by ch. 146 of the *Laws of Iowa*, 1856-1857. The last named act was for the most part repealed in 1858, ch.



152, while most of the code and of the act of 1852-1853 were either with or without modification, re-enacted by the above mentioned ch. 152 of the *Laws of Iowa*, 1858, which, with many amendments, reappears substantially in ch. 45 of the *Revision of 1860*.—See note on pp. 108, 109 of the *Revision of 1860*.

<sup>610</sup> *Laws of Iowa* (extra session), 1861, ch. 24.

<sup>611</sup> *Laws of Iowa*, 1862, ch. 17. See also *Laws of Iowa*, 1864, ch. 43.

<sup>612</sup> *Laws of Iowa*, 1862, ch. 19. For other acts passed by the Ninth General Assembly pertaining to further decentralization in administration, collection of delinquent taxes, and the reception of Auditor's warrants in payment of taxes see *Laws of Iowa*, 1862, chs. 21, 110, 154, 168, 173. See also *Laws of Iowa* (extra session), 1862, ch. 8.

<sup>613</sup> For the tax legislation enacted from 1864 to 1872 inclusive see *Laws of Iowa*, 1864, chs. 43, 57, 79, 89, 93, 100, 124; *Laws of Iowa*, 1866, chs. 87, 91, 92, 103, 104, 124, 143; *Laws of Iowa*, 1868, chs. 75, 76, 92, 137, 140, 190; *Laws of Iowa*, 1870, chs. 14, 18, 20, 40, 54, 59, 65, 89, 90, 105, 116, 138, 181, 187; *Laws of Iowa* (public), 1872, chs. 3, 17, 19, 21, 28, 31, 78, 120, 124, 132.

<sup>614</sup> *Laws of Iowa*, 1868, ch. 92; *Laws of Iowa* (public), 1872, ch. 3.

<sup>615</sup> *Laws of Iowa*, 1870, ch. 138.

<sup>616</sup> *Laws of Iowa*, 1870, chs. 20, 59, 116.

<sup>617</sup> *Laws of Iowa* (public), 1872, ch. 21.

<sup>618</sup> Brindley's *History of Taxation in Iowa*, Vol. I, pp. 68, 69, 276.

The maximum levies authorized by law in 1872 were as follows: "for the State, two mills; for the county, for ordinary revenue, four mills, for high schools, four mills, for bridges, three mills, and for public buildings, two mills; for townships, for roads, five mills, for railroads, fifty mills; and for school districts and sub-school districts, fifteen mills."—Brindley's *History of Taxation in Iowa*, Vol. I, p. 276.

<sup>619</sup> *Code of 1873*, secs. 111, 796-919.

<sup>620</sup> Brindley's *History of Taxation in Iowa*, Vol. I, pp. 70-105.

<sup>621</sup> Brindley's *History of Taxation in Iowa*, Vol. I, p. 90.

<sup>622</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, pp. 341-343.

<sup>623</sup> *Laws of Iowa*, 1892, ch. 72. The preamble to this act is interesting in this connection as indicating to some extent the dissatisfaction with the revenue system:

"Whereas, The methods of raising revenue are generally recognized as being burdensome, unequal, and unfair in their operations; and

"Whereas, Some system of taxation should be devised that will command the respect and confidence of the people, and,

"Whereas, It is impossible to amend or change the present revenue laws without re-writing, revising and reforming the same, and such work is impractical during a session of any general assembly".

<sup>624</sup> See *Report of the Revenue Commission*, 1893, pp. 17-56.

<sup>625</sup> *Code of 1897*, sec. 1305.

<sup>626</sup> *Laws of Iowa*, 1900, ch. 50.

<sup>627</sup> *Laws of Iowa*, 1911, ch. 66.

<sup>628</sup> *Laws of Iowa*, 1911, ch. 63.

<sup>629</sup> *Senate Journal*, 1907, pp. 686, 905; *Senate Journal*, 1909, p. 426.

<sup>630</sup> *Iowa Documents*, 1911, Vol. I, p. 8.

<sup>631</sup> *Laws of Iowa*, 1911, ch. 204, sec. 2.

<sup>632</sup> *Report of the Special Tax Commission*, 1912, p. 75.

<sup>633</sup> *House Journal*, 1913, p. 1129; *Senate Journal*, 1913, p. 880.

<sup>634</sup> *Senate Journal*, 1915, p. 884.

<sup>635</sup> *Report of the Revenue Commission*, 1893, p. 15; *Laws of Iowa*, 1896, ch. 28.

<sup>636</sup> *Laws of Iowa*, 1896, ch. 28; Brindley's *History of Taxation in Iowa*, Vol. I, pp. 226, 227.

<sup>637</sup> *Laws of Iowa*, 1898, ch. 37; *Laws of Iowa*, 1900, ch. 51; *Laws of Iowa*, 1902, ch. 63; *Laws of Iowa*, 1904, ch. 51; *Laws of Iowa*, 1906, chs. 54, 55; *Laws of Iowa*, 1909, ch. 92.

<sup>638</sup> *Laws of Iowa*, 1911, ch. 68. See also *Laws of Iowa*, 1913, chs. 120, 121.

<sup>639</sup> The material in this section is derived from the following sources: *Code of 1897*; *Supplement to the Code of Iowa*, 1913; *Supplemental Supplement to the Code of Iowa*, 1915; *Taxation and Revenue Systems of State and Local Governments* (Bureau of the Census), 1914, pp. 79-84; and *Report of the Special Tax Commission*, 1912, pp. 17-25.

<sup>640</sup> *Report of the Special Tax Commission*, 1912, p. 24.

<sup>641</sup> *Biennial Report of the Auditor of State*, 1916, pp. 159, 161.

<sup>642</sup> For a complete list of business taxes, licenses, and fees in Iowa see *Taxation and Revenue Systems of State and Local Governments* (Bureau of the Census), 1914, pp. 81, 82.

<sup>643</sup> *Report of the Special Tax Commission*, 1912, p. 38.

<sup>644</sup> For the more important acts relating to taxation passed from 1874 to 1917 see *Laws of Iowa*, 1874 (general), chs. 28, 29, 45, 46, 62, 63, 66, 67; *Laws of Iowa*, 1876, chs. 79, 113, 116, 131, 145; *Laws of Iowa*, 1878, chs. 50, 59, 99, 101, 122, 155, 162, 174; *Laws of Iowa*, 1880, chs. 13, 36, 52, 57, 75, 109,

132; *Laws of Iowa*, 1882, chs. 4, 32, 36, 45, 63, 136, 137, 158, 169; *Laws of Iowa*, 1884, chs. 68, 70, 72, 120, 182, 194, 200; *Laws of Iowa*, 1886, chs. 10, 13, 78, 97, 132, 133; *Laws of Iowa*, 1888, chs. 16, 22, 43, 44, 45, 46, 47, 107, 193; *Laws of Iowa*, 1890, ch. 130; *Laws of Iowa*, 1892, chs. 14, 35, 57, 72; *Laws of Iowa*, 1894, chs. 22, 39, 62, 81, 91, 110; *Laws of Iowa*, 1896, chs. 26, 29, 30, 31, 109; *Laws of Iowa*, 1898, chs. 27, 30, 32, 33, 34, 35, 36, 37; *Laws of Iowa*, 1900, chs. 40, 41, 44, 46, 47, 48, 49, 50, 86, 148; *Laws of Iowa*, 1902, chs. 53, 56, 59, 63; *Laws of Iowa*, 1904, chs. 2, 42, 43, 48, 49, 50, 51; *Laws of Iowa*, 1906, chs. 9, 31, 33, 48, 49, 51, 52, 53, 54, 55, 56, 58, 60, 99, 173; *Laws of Iowa*, 1907, chs. 5, 54, 55, 59, 60, 61, 62, 63; *Laws of Iowa*, 1909, chs. 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92; *Laws of Iowa*, 1911, chs. 24, 29, 30, 61, 62, 63, 64, 65, 66, 67, 68; *Laws of Iowa*, 1913, chs. 14, 17, 115, 116, 117, 118, 122, 228; *Supplemental Supplement to the Code of Iowa*, 1915, Title VII, pp. 106-114; *Laws of Iowa*, 1917, chs. 137, 343, 416.



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